Supreme Court, U.S.
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No. 10-707

IN THE
Supreme Court of the United States

LORNA ROOS,

Petitioner,

v.

MICHAEL Y. ROOS,

Respondent.

On Petition For Writ Of Certiorari
To The
California Court Of Appeal,
Second Appellate District, Division Three

PETITION FOR WRIT OF CERTIORARI

LORNA ROOS IN PRO PER
1482 East Valley Road, #305
Santa Barbara, CA 93108
(805) 845-8395

QUESTIONS PRESENTED

Given that both parties in a case have been given ample time to raise their issues and objections, is it an abuse of discretion for a appeals court opinion to raise new issues and new case law (not proposed and or briefed in violation of California Government Code section 68081) that seeks to unlawfully eliminate valid evidence exists on the appellate record (as designated by Appellant pursuant to California Rules of the court 8.124 as the Appellant's Appendix [AA], the record on appeal without any objections filed by Respondent) in direct violation of Federal Rules of Appellate Procedure Circuit, Rule10 the Record on Appeal, on behalf of one party in the case? (Opinion – Appx- "A", AA 1305-1306)

Is it not a violation of due process and reversible error for the appellate court to fail to consider the body of evidence that was before the lower court at the time of judgment? (Fourteenth amendment, AA 174-1144)

Whether the lower court violated petitioner's rights under the Fourteenth Amendment to equal protection of their life, liberty, safety, security, tranquility, and property and violated the law by providing financial resources to hire an attorney for only one party in the dissolution of marriage (including support orders) Respondent, Mike Roos but not that of Petitioner, Lorna Roos?

QUESTIONS PRESENTED
Continued

How can a valid dissolution of marriage and division of assets occur, when trial briefs that were properly submitted and filed with the court (AA737,AA174) are now missing from the court docket (despite being filed on 3 separate occasions by Petitioner), and *no statement of decisions was ever rendered* on the final judgment? Given that no statement of decisions on the final judgment exists (despite a written request for a statement of decisions by petitioner AA734), does this omission by the court not violate the law (California Code of Civil Procedure 632) and the rights of petitioner to due process? When no basis for the decisions has been presented or recorded by the court, how can any such judgment ever be validly examined or challenged? (AA524-530)

Given that a party in an action (Appellant) has notified the court that the record is materially inaccurate (on several occasions), and presented valid court stamped proofs of service that critical evidence is missing from the record (AA736-738) (enabling false statements of facts to be used by the court as the basis of an opinion), at what point does a failure by the lower court and appeals court to investigate and correct the record constitute an abuse of discretion? At what point does this failure constitute judicial misconduct? (Oral Arguments 4/14/2010, AA625, Appellate Docket 6/17/09, 7/7/09 Appx-R)

QUESTIONS PRESENTED
Continued

Whether the lower court has jurisdiction over a District Attorney's child and spousal support arrearages case BD202859 and abused it's discretion when no parties signed a stipulation for such a transfer?

Whether the lower court violated petitioner's rights to at least one fair trial in the dissolution of marriage by permitting Respondent, Mike Roos to deliver his final declaration of disclosure after the first day of trial, March 9th , 2000 occurred (despite petitioner's objection on April 27th, 2000) in direct violation of California Family Code Section 2105 (preventing any discovery) and for allowing Respondent to turn over no tax returns (despite petitioner's subpoenaed requests and In-contempt charges filed) for support order hearings too in direct violation of California Family Code Section 3552 (a) ?

Whether the trial court abused it's discretion by failing to follow the law regarding undisclosed assets and income in the dissolution of marriage and on support orders by not applying severe sanctions to Respondent (for his breach of fiduciary duty, and for his intentional non-disclosure of assets and income) as stated under California Family Code Section 2120, 2121, 2122 (a) & (b), and as set forth in Sections 721, 1100, and 1101 of the Family Code, when the breach

QUESTIONS PRESENTED
Continued

falls within the ambit meaning of 3294 of the Civil Code?

LIST OF ALL PARTIES TO THE PROCEEDINGS

Pursuant to Rule 14.1(b), the parties here and in the proceeding in District Court is Petitioner, Lorna Roos, and Respondent, Michael Y. Roos. Pursuant to Rule 12.4 Petitioner's twin-sister, Leslie Stevenson Reilly is joined here within to this petition for certiorari. The trial court failed to join Leslie Reilly previously in violation of the law when she was tied to many financial transactions and interests of the community estate. The trial court failed to award Petitioner's twin-sister, Leslie Stevenson Reilly any of her separate property contributions made to the community and her separate investments made into Sacramento property (diverted to pay for the investment made into Commerce Casino Card Club). Leslie Stevenson Reilly is now being joined to this case as her separate property interests need to be protected, adjudicated, and awarded to her.

RULE 29.4 (a) & (c) FILING AND SERVICE OF DOCUMENTS; SPECIAL NOTIFICATIONS;

(a) May apply for criminal prosecution: service made on the Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Ave., N.W. Washington, D.C. 20530-0001

(c)May apply for criminal prosecution: service made on the Attorney General of the State of California

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No. 10 -

IN THE SUPREME COURT OF THE UNITED STATES

October Term 2010

LORNA ROOS,

Petitioner,

v.

MICHAEL Y. ROOS,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION THREE

Petitioner Lorna Roos respectfully prays that a Writ of Certiorari issue to review the decision of the California Court of Appeal entered on June 23rd, 2010.

OPINIONS BELOW

The California Court of Appeal issued its unpublished opinion in this case on June 23rd, 2010, with Presiding Justice J.KITCHING with P. J. KLEIN and J.CROSKEY both concurring. A copy of that opinion is attached as *Appendix A.*

On April 27th, 2009, the Superior Court of the State of California, County of Los Angeles issued a Order After Hearing and minute order 1. Petitioner's motion to set aside judgment is denied. 2. Respondent's motion to quash is granted. 3. Petitioner's ex-parte application to freeze assets is denied. A copy of that order is attached as *Appendix B.*

The California Supreme Court issued a one-page order denying discretionary review of the Court of Appeal's decision on September 1st, 2010. A copy of that order is attached as *Appendix C.*

The California Court of Appeal denied a Petition for rehearing and request for Judicial Notice on July 12th, 2010.

JURISDICTION

The California Supreme Court denied discretionary review on September,1st 2010. This Court has jurisdiction pursuant to 28 U.S.C. section 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A. Federal Constitutional Provisions

The Fourteenth Amendment to the United States Constitution provides in pertinent part: "[n]or shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

B. Federal Rules of the court Appellate Procedure

The FRAP Circuit, Rule10 the Record on Appeal provides: "The Record on Appeal

(a) Composition of the Record on Appeal.

The following items constitute the record on appeal:

(1) the original papers and exhibits filed in the district court;

(2) the transcript of proceedings, if any; and

(3) a certified copy of the docket entries prepared by the district clerk.

(e) Correction or Modification of the Record.

(1) If any difference arises about whether the record truly discloses what occurred in the district court, the difference must be submitted to and settled by that court and the record conformed accordingly.

(2) If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded:

(A) on stipulation of the parties;

(B) by the district court before or after the record has been forwarded; or

(C) by the court of appeals.

(3) All other questions as to the form and content of the record must be presented to the court of appeals."

C. State Statutory Provisions

California Government Code section 68081, provides: "Before the Supreme Court, a court of appeal, or the appellate division of a superior court renders a decision in a proceeding other than a summary denial of a petition for an extraordinary writ, based upon an issue which was not proposed or briefed by any party to the proceeding, the court shall afford the parties an opportunity to present their views on the matter through supplemental briefing. If the court fails to afford that opportunity, a rehearing shall be ordered upon timely petition of any party."

California Code of Civil Procedure Section 632, provides in relevant part: " In superior courts, upon the trial of a question of fact by the court, written findings of fact and conclusions of law shall not be required. The court shall issue a statement of decision explaining the factual and legal basis for its decision as to each of the principal controverted issues at trial upon the request of any party appearing at the trial. The request must be made within 10 days after the court announces a tentative decision unless the trial is concluded within one calendar day or in less than eight hours over more

than one day in which event the request must be made prior to the submission of the matter for decision. The request for a statement of decision shall specify those controverted issues as to which the party is requesting a statement of decision. After a party has requested the statement, any party may make proposals as to the content of the statement of decision....."

California Family Code Section 2105 provides in relevant part:

"(a) Except by court order for good cause, before or at the time the parties enter into an agreement for the resolution of property or support issues other than pendente lite support, or, if the case goes to trial, no later than 45 days before the first assigned trial date, each party, or the attorney for the party in this matter, shall serve on the other party a final declaration of disclosure and a current income and expense declaration, executed under penalty of perjury on a form prescribed by the Judicial Council, unless the parties mutually waive the final declaration of disclosure. The commission of perjury on the final declaration of disclosure by a party may be grounds for setting aside the judgment, or any part or parts thereof, pursuant to Chapter 10 (commencing with Section 2120), in addition to any and all other remedies, civil or criminal, that otherwise are available under law for the commission of perjury.

(b) The final declaration of disclosure shall include all of the following information:

(1) All material facts and information regarding the characterization of all assets and liabilities.

(2) All material facts and information regarding the valuation of all assets that are contended to be community property or in which it is contended the community has an interest.

(3) All material facts and information regarding the amounts of all obligations that are contended to be community obligations or for which it is contended the community has liability.

(4) All material facts and information regarding the earnings, accumulations, and expenses of each party that have been set forth in the income and expense declaration.

(c) In making an order setting aside a judgment for failure to comply with this section, the court may limit the set aside to those portions of the judgment materially affected by the nondisclosure.

(d) The parties may stipulate to a mutual waiver of the requirements of subdivision (a) concerning the final declaration of disclosure, by execution of a waiver under penalty of perjury entered into in open court or by separate stipulation. The waiver shall include all of the following representations:

(1) Both parties have complied with Section 2104 and the preliminary declarations of disclosure have been completed and exchanged.

(2) Both parties have completed and exchanged a current income and expense declaration, that includes all material facts and information regarding that party's earnings, accumulations, and expenses.

(3) Both parties have fully complied with Section 2102 and have fully augmented the preliminary declarations of disclosure, including disclosure of all material facts and information regarding the characterization of all assets and liabilities, the valuation of all assets that are contended to be community property or in which it is contended the community has an interest, and the amounts of all obligations that are contended to be community obligations or for which it is contended the community has liability.

(4) The waiver is knowingly, intelligently, and voluntarily entered into by each of the parties.

(5) Each party understands that this waiver does not limit the legal disclosure obligations of the parties, but rather is a statement under penalty of perjury that those obligations have been fulfilled. Each party further understands that noncompliance with those obligations will result in the court setting aside the judgment."

California Family Code Section 3552(a) provides:

"(a) In a proceeding involving child, family, or spousal support, no party to the proceeding may refuse to submit copies of the party's state and federal income tax returns to the court, whether individual or joint.

(b) The tax returns may be examined by the other party and are discoverable by the other party. A party also may be examined by the other party as to the contents of a tax return submitted pursuant to this section.

(c) If the court finds that it is relevant to the case to retain the tax return, the tax return shall be sealed and maintained as a confidential record of the court. If the court finds that the tax return is not relevant to disposition of the case, all copies of the tax return shall be returned to the party who submitted it."

California Family Code Section 2120, 2121, and 2122(a) & (b) provides in pertinent part:

"2120. The Legislature finds and declares the following:

(a) The State of California has a strong policy of ensuring the division of community and quasi community property in the dissolution of a marriage as set forth in Division 7 (commencing with Section 2500), and of providing for fair and sufficient child and spousal support awards. These policy goals can only be implemented with full disclosure of community, quasi-community, and separate assets, liabilities, income, and expenses, as provided in Chapter 9 (commencing with Section 2100), and decisions freely and knowingly made.

(b) It occasionally happens that the division of property or the award of support, whether made as a result of agreement or trial, is inequitable when made due to the nondisclosure or other misconduct of one of the parties.

(c) The public policy of assuring finality of judgments must be balanced against the public interest in ensuring proper division of marital property, in ensuring sufficient support awards, and in deterring misconduct.

(d) The law governing the circumstances under which a judgment can be set aside, after the time for relief under Section 473 of the Code of Civil Procedure has passed, has been the subject of considerable confusion which has led to increased litigation and unpredictable and inconsistent decisions at the trial and appellate levels.

2121. (a) In proceedings for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court may, on any terms that may be just, relieve a spouse from a judgment, or any part or parts thereof, adjudicating support or division of property, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based on the grounds, and within the time limits, provided in this chapter.

(b) In all proceedings under this chapter, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original outcome and that the moving party would materially benefit from the granting of the relief.

2122. The grounds and time limits for a motion to set aside a judgment, or any part or parts thereof, are governed by this section and shall be one of the following:

(a) Actual fraud where the defrauded party was kept in ignorance or in some other manner, other than his or her own lack of care or attention, was fraudulently prevented from fully participating in the proceeding. An action or motion based on fraud shall be brought

within one year after the date on which the complaining party either did discover, or should have discovered the fraud.

(b) Perjury. An action or motion based on perjury in the preliminary or final declaration of disclosure or in the current income and expense statement shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the perjury."

California Family Code Section 1101 that includes family Codes 721 and 1100, and California Code of Civil procedure 3294 states in relevant part:

"(a) A spouse has a claim against the other spouse for any breach of the fiduciary duty that results in impairment to the claimant spouse's present undivided one-half interest in the community estate, including, but not limited to, a single transaction or a pattern or series of transactions, which transaction or transactions have caused or will cause a detrimental impact to the claimant spouse's undivided one-half interest in the community estate.

(b) A court may order an accounting of the property and obligations of the parties to a marriage and may determine the rights of ownership in, the beneficial enjoyment of, or access to, community property, and the classification of all property of the parties to a marriage.

(c) A court may order that the name of a spouse shall be added to community property held in the name of the other spouse alone or that

the title of community property held in some other title form shall be reformed to reflect its community character, except with respect to any of the following:

(1) A partnership interest held by the other spouse as a general partner.

(2) An interest in a professional corporation or professional association.

(3) An asset of an unincorporated business if the other spouse is the only spouse involved in operating and managing the business.

(4) Any other property, if the revision would adversely affect the rights of a third person.

(d) (1) Except as provided in paragraph (2), any action under subdivision (a) shall be commenced within three years of the date a petitioning spouse had actual knowledge that the transaction or event for which the remedy is being sought occurred.

(2) An action may be commenced under this section upon the death of a spouse or in conjunction with an action for legal separation, dissolution of marriage, or nullity without regard to the time limitations set forth in paragraph (1).

(3) The defense of laches may be raised in any action brought under this section.

(4) Except as to actions authorized by paragraph (2), remedies under subdivision (a) apply only to transactions or events occurring on or after July 1, 1987.

(e) In any transaction affecting community property in which the consent of both spouses is

required, the court may, upon the motion of a spouse, dispense with the requirement of the other spouse's consent if both of the following requirements are met:

(1) The proposed transaction is in the best interest of the community.

(2) Consent has been arbitrarily refused or cannot be obtained due to the physical incapacity, mental incapacity, or prolonged absence of the nonconsenting spouse.

(f) Any action may be brought under this section without filing an action for dissolution of marriage, legal separation, or nullity, or may be brought in conjunction with the action or upon the death of a spouse.

(g) Remedies for breach of the fiduciary duty by one spouse, including those set out in Sections 721 and 1100, shall include, but not be limited to, an award to the other spouse of 50 percent, or an amount equal to 50 percent, of any asset undisclosed or transferred in breach of the fiduciary duty plus attorney's fees and court costs. The value of the asset shall be determined to be its highest value at the date of the breach of the fiduciary duty, the date of the sale or disposition of the asset, or the date of the award by the court.

(h) Remedies for the breach of the fiduciary duty by one spouse, as set forth in Sections 721 and 1100, when the breach falls within the ambit of Section 3294 of the Civil Code shall include, but not be

limited to, an award to the other spouse of 100 percent, or an amount equal to 100 percent, of any asset undisclosed or transferred in breach of the fiduciary duty.

D. State Rules of Court

Calif. Rule 8.124 the "Appellant's Appendix" provides in relevant part:

"Rule 8.124. Appendixes

(a) Notice of election

(1) Unless the superior court orders otherwise on a motion served and filed within 10 days after the notice of election is served, this rule governs if:

(A) The appellant elects to use an appendix under this rule in the notice designating the record on appeal under rule 8.121; or

(B) The respondent serves and files a notice in the superior court electing to use an appendix under this rule within 10 days after the notice of appeal is filed and no waiver of the fee for a clerk's transcript is granted to the appellant.

(2) When a party files a notice electing to use an appendix under this rule, the superior court clerk must promptly send a copy of the register of actions, if any, to the attorney of record for each party and to any unrepresented party.

(3) The parties may prepare separate appendixes, but are encouraged to stipulate to a joint appendix.

(b) Contents of appendix

(1) A joint appendix or an appellant's appendix must contain:

(A) All items required by rule 8.122(b)(1), showing the dates required by rule 8.122(b)(2);

(B) Any item listed in rule 8.122(b)(3) that is necessary for proper consideration of the issues, including, for an appellant's appendix, any item that the appellant should reasonably assume the respondent will rely on;

(C) The notice of election; and

(D) For a joint appendix, the stipulation designating its contents. .....

(4) All exhibits admitted in evidence, refused, or lodged are deemed part of the record, whether or not the appendix contains copies of them. .....

(c) Document or exhibit held by other party

If a party preparing an appendix wants it to contain a copy of a document or an exhibit in the possession of another party:

(1) The party must first ask the party possessing the document or exhibit to provide a copy or lend it for copying. All parties should reasonably cooperate with such requests.

(2) If the attempt under (1) is unsuccessful, the party may serve and file in the reviewing court a notice identifying the document or specifying the exhibit's trial court designation and requesting the party possessing the document or exhibit to deliver it to the requesting party or, if the possessing party prefers, to the reviewing court. The possessing party must comply with the request within 10 days after the notice was served.....

(d) Form of appendix

(1) An appendix must comply with the requirements of rule 8.144(a)-(c) for a clerk's transcript.

(2) In addition to the information required on the cover of a brief by rule 8.204(b)(10), the cover of an appendix must prominently display the title "Joint Appendix" or "Appellant's Appendix" or "Respondent's Appendix" or "Appellant's Reply Appendix"

(3) An appendix must not be bound with a brief.....

(g) Inaccurate or noncomplying appendix

Filing an appendix constitutes a representation that the appendix consists of accurate copies of documents in the superior court file. The reviewing court may impose monetary or other sanctions for filing an appendix that contains inaccurate copies or otherwise violates this rule.....

Advisory Committee Comment

Subdivision (a)(2) is intended to assist appellate counsel in preparing an appendix by providing them with the list of pleadings and other filings found in the register of actions or "docket sheet" in those counties that maintain such registers. (See Gov. Code, § 69845.) The provision is derived from rule 10-1 of the United States Circuit Rules (9th Cir.).

Subdivision (b). Under subdivision (b)(1)(A), a joint appendix or an appellant's appendix must contain any register of actions that the clerk sent to the parties under subdivision (a)(2). This provision is intended to assist the reviewing court in determining the accuracy of the appendix. The provision is derived from rule 30-1.3(a)(ii) of the United States Circuit Rules (9th Cir.)....."

The full Appellant's Appendix volumes I-V (including Reporters transcript) and the Oral Argument CD will be lodged with the Clerk of the U.S. Supreme Court.

INTRODUCTION

Judges are required to follow the law. In this case, the Appeals Court violated the law: 1.) California Government Code section 68081 by raising new issues never proposed, and or briefed and 2.) Federal Rules of Appellate Procedure Circuit rule10 (a)-(e), by improperly eliminating the body of evidence that was before the lower court and properly designated by Appellant pursuant to Calif. Rule 8.124 as the "Appellant's Appendix". Rather than following these laws, the appeals court unlawfully eliminated evidence from the appellate record, and technically nullified the body of evidence (despite no objections

from either party to the action) that was before the lower court. Such behavior by the appeals court violates the law. Appellant raised these issues in her petition for review and, the California State Supreme court denied the petition while failing to address these violations of the law.

Appellant sincerely hopes the judgment will be reversed. As *Herb v. Pitcairn* (1945) 324 U.S. 117, 125-126, states: "Our only power over states judgments is to correct them to the extent that they incorrectly adjudge federal rights. And our power is to correct wrong judgments, not to revise opinions."

Appellant was denied a fair trial. Appellant is horrified that the irresponsible and improper conduct by judges was tolerated, overlooked, and covered up by the justices of the appellate courts in California. Respondent, Mike Roos, a powerful lobbyist in both California and Washington D.C. apparently has influence over our courts. (Appendix F) The law clearly states that a judge shall not allow political, or other relationships to influence the judge's judicial conduct or judgment. The violations of the laws and rules have affected the outcome of this case in a wrong judgment.

Appellant seeks relief from this court and is satisfied once the petition for certiorari is read, relief will be granted. (Petition For Cert. 1-57 11/25/2010)

Lorna Roos appeals the following post-judgment orders and requests reversal:

1. The denial of Lorna's set aside motion on divorce judgment, which included support

orders, (including $924,000+in fraudulent third party credits granted to Mike Roos (in a back-room deal that eliminated Petitioner, and provided no accounting records underlying what is "theft by false audit" orchestrated by Mike Roos),(AA45-165,AA174-1144)

2. The granting of Mike Roos' motion to quash Lorna's subpoenas for evidence regarding un-adjudicated assets, and (AA1170-1259)
3. The denial of Lorna's motion to "freeze assets." (AA260-1274)

STATEMENT OF CASE

The appeals court has errored in their opinion-Appendix A because it is based on inaccurate material facts and issues.ARB 19-Appendix L, AD-Appendix R (MTS 12/14/09-Appendix S) The appeals court has also errored due to its failure to investigate allegations and evidence that the court record is inaccurate, and failed to investigate allegations that important evidence appears to have been improperly handled and/or destroyed by the lower court. (AD 6/17/09, 7/7/09-Appendix-R, AA625) The appeals court has errored in taking aggressive actions to technically disqualify smoking gun evidence of fraud and non-disclosure of assets, rather than investigating evidence that was validly submitted to the court.(AA1305-1306-Appendix J)

The facts set forth in the appeals court opinion is inaccurate, and entirely omits two days of trial (March 9th and 10th of 2000). (Appendix A & E) The same opinion also omits trial briefs (trial testimony)

submitted by both parties regarding allegations and evidence of fraud and perjury. Appellant presented evidence that these trials briefs are completely missing from the court docket, and these briefs are required to establish accurate facts and issues.(AA625) Appellant is alleging that the conclusions in the opinion are completely undermined by the evidence that was filed with Petitioner's original OSC motion on 9/29/08 and additional evidence submitted to the court at hearing (including prior trial briefs that have now vanished from the record) before Judge Diaz on 10/28/08. (AA45-165, AA174-1144)

This mishandling of evidence (including the court record), and the miss-statements of facts and issues in the opinion needs to be investigated and properly resolved. Appellant hereby incorporates the statement of the case and facts from her AOB 1-59. (Appendix "E")

See FACTS under each of the five ARGUMENTS below.

REASONS FOR GRANTING THE PETITION

Appellant is filing petition for certiorari review on Appeals case B216438 and Superior Court case BD202859, Roos v. Roos. The basis for this request is because the appeals court has set forth an opinion that:

I. unlawfully eliminated evidence from the appellate record in direct violation of Federal Rules of Appellate Procedure Circuit Rule 10 (THE RECORD OF APPEAL) (AA45-165,AA174-1144)

II. inaccurately presents material facts and issues

III. has violated California Government Code section 68081 by introducing new issues, primarily regarding admissibility of evidence that the parties had neither proposed nor briefed.

IV. fails to address important issues and evidence contained in this appeal, (a blind eye completely ignores facts and evidence that contradict the opinion by simply omitting and pretending that the contradictory facts and evidence simply do not exist, when the evidence clearly exists on the appellate record).(AA1305-1306,AA45-165,AA174-1144)

V. incorporates case law that is irrelevant and immaterial to the issues raised on the appeal.

A grant of certiorari review and resolution of the above issues is necessary to correct errors in the opinion that has resulted in *false conclusions* being rendered in the opinion-Appendix A, that are based on false statements about the evidence, false statements regarding appellate record, and resulting in a miscarriage of justice and irreparable harm to Appellant. Appellant requests review of a state judgment, under the statutory basis of 28 United State Code section 1257(a), and pursuant to U.S. Supreme Court Rules of the Court, rule 14.1 (i).

ARGUMENTS

I. EVIDENCE HAS BEEN UNLAWFULLY ELIMINATED FROM THE APPELLATE RECORD IN DIRECT VIOLATION OF FEDERAL RULES OF APPELLATE PROCEDURE CIRCUIT RULE 10

THE FACTS:

A significant amount of evidence that was validly submitted to the lower court by Appellant has been unlawfully eliminated by the appeals court from the appellate record (evidence eliminated: AA45- 165and AA175-1144). The opinion-Appendix A, page 2 footnote 1 falsely states, *"there is nothing in the record indicating the documents were lodged with the superior court. In fact, the superior court case summary in the record does not include an entry for these documents."* This statement is materially inaccurate and is revealed to be inaccurate by both the court docket and a minute order. Item AA45-165 is clearly evidenced in the appellate record (Exhibit "G" court docket *AA 1308*). In addition, item AA175-1144 is clearly evidenced in the appellate record (Exhibit "H" minute order *AA174*). This minute order states: "*the court must read and consider the large number of documents submitted by petitioner."*

These false conclusions set forth in the opinion appear to be based on a false statement of the record, made by Respondent's attorney (Appendix K-RRB p 6), whereby these false statements of fact and false citations are now incorporated in the appeals court opinion. Appellant brought these material inaccuracies to the attention of the appeals court

on two separate occasions (see: Appendix S- motion to strike all of page 6 RRB filed 12-14-09- Appendix K, and Appendix L- ARB page 19 false citations). These significant inaccuracies contained within the opinion is extremely distressing to Appellant as only two possible conclusions can be drawn from the elimination of this evidence from the appellate record, either: a) Judicial Negligence in examining the facts and evidence on the appellate record and/or b) Judicial Misconduct in unlawfully eliminating this key evidence from the appellate record.

The evidence on the appellate record is critical to this case. (AA45-165, AA175-1144) In this regard, this entire opinion has certain smell to it. In the face of ruling against smoking gun evidence that was validly submitted by Appellant, it appears judicial liability and accountability can effectively be minimized, if the opinion simply states "smoking gun evidence" was either never submitted by Appellant, or it is now somehow technically inadmissible (despite this issue never being raised in the lower court, proposed and or briefed). In essence, if both the lower court judges and appellate judges can plausibly claim to *never have seen the evidence*, or they *should not evaluate the evidence* (because it is technically inadmissible), how can they ever subsequently be found guilty of judicial misconduct or abuse of discretion (as plausible deniability has now been established)? This entire matter of unlawfully eliminating evidence is quite disturbing.

This evidence clearly existed before the lower court and was properly designated on the appellate record. Court docket (*AA1308-Appendix G*) clearly states *Petitioner filed OSC motion 9/29/2008* (AA45-165 evidence). Additionally, Superior Court minute order (*AA174-Appendix H*) reveals *submitted documents were indeed received, and states, "the court must read and consider the large number of documents submitted by petitioner." This evidence was to be considered before Judge Diaz.* (AA175-1144 designated documents submitted at hearing)

Appellant properly included a Chronological Index (Appendix J-AA1305) in both designation of the record and Appellant's Appendix, whereby the above documents were specifically titled and listed with the date filed and submitted to the lower court.(AA1297-1306-Appendix J) Respondent, Respondent's attorneys, and Judge Diaz never objected to these documents when served with the notice of designation of the record and AOB-Appendix E with appellant's appendix, AA volumes I-V.

Appellant is shocked and dismayed that the opinion-Appendix A falsely rewrites the appellate record, when the Chronological index (AA1305-Appendix J) is very clear that the following documents were admissible before the lower court (1. *OSC Motion to set aside Judgment dated 6/04/04 filed by Petitioner 9/29/08 AA 45"-165,* and 2. "*Case Overview full and frank disclosure submitted to the court by Petitioner in support of Motion to set aside Judgment dated 6/04/04 and for attorney bills on 10-28-08 page AA*

175"-1144). Despite a very specific appellate record on this matter, the appeals opinion unlawfully eliminates the evidence that was validly filed and submitted by Petitioner in the lower court and designated on the appellate record. (AA45-165) (AA175-1144). The opinion sets forth false statements of material fact. (AA1297-1306-Appendix J) These false statements in the opinion appear to be based upon a fraudulent portrayal of the court record by Respondent's attorney. This false portrayal of the court record appears to be a deliberate act of perjury by Respondent's attorney to the appeals court (Appendix K- RRB 6) that is intended to nullify evidence that was validly before the lower court through false statements that fraudulently attempt to re-write the record. Page 6 of RRB, Respondent's attorney fraudulently claims documents that were actually submitted at hearing by Petitioner (AA175-1144) on 10/28/2008, were instead filed at a different time and date (fraudulent date given in RRB 9/29/08). This false statement of fact appears to be a deliberate act of perjury, and is revealed as such by the Chronological Index appellate record. (AA1305-Appendix J) The real appellate record reveals addition evidence AA175-1144 was in fact submitted 10/28/08 at hearing. Importantly, the real appellate record leaves intact both the 111 pages of evidence filed with the lower court original OSC Motion Filing (filed 9/29/08 by Petitioner declaration exhibit's 1-4 AA45-165) and the 970 pages of additional evidence (submitted by Petitioner 10-28-08 Case overview exhibit's 1-87, and 105 AA 175-1144). (Minute order-Appendix H)

This false statement of the record by Respondent's attorney (perjury) attempts to make 111 pages and 970 pages of documents and evidence vanish from the court record, by a deliberate misstatement of material facts. Page 6 RRB-Appendix K, Respondent's attorney states: "*it can be confirmed that Ms. ROOS' Case Overview, consisting of a 16 page single-spaced email served as her Declaration for the Court in the Motion to Set Aside, and including an Exhibit List, consisting of either 88 or 105 exhibits*" with false citations "*AA175 and AA191*". This statement is completely false and the Chronological index (AA 1305-Appendix J) reveals it to be false.

The appellate record reveals that the opinion of the appeals court has UNLAWFULLY eliminated evidence from the appellate record in a way that prevents accurate conclusions and findings in the opinion. The opinion- Appendix A, from the appeals court inaccurately presents material facts and issues that ultimately re-writes the record and eliminates 1081 pages of evidence from the appellate record. Facts and evidence supporting this allegation are presented in the paragraphs below.

Page 5 of the opinion under the section titled DISCUSSION, the author of the opinion concludes, "*However, Lorna did not file any admissible evidence to support an order to set aside the judgment based on these grounds.*" This statement is completely false. Even worse, as one digs into what lies behind

the word "admissible" in this false statement, a bedrock of other false statements are uncovered in the opinion where there is little question that they are deliberately fraudulent and likely criminal, because it is fundamentally based on deliberate elimination of evidence from the appellate record. Some of the most compelling grounds to set aside the judgment is the legal filing of over 120 pages of smoking-gun evidence of criminal behavior that was filed with the court on 9/29/08 by Petitioner (Designated Petitioners original OSC motion, declaration, exhibits attached 1-4 AA45-165), and documented by court docket case summary AA1308-Appendix G). Importantly, the author of the opinion from the appeals court has deliberately attempted to WIPE FROM THE RECORD the 111 pages of smoking-gun evidence/exhibit's 1-4 that was validly submitted with OSC filing on 9/29/08, and was attached to declaration. Any record that this evidence exists (or was validly submitted to the court by Petitioner AA45-165) is effectively WIPED FROM THE RECORD by the false statements on page 2, which actually occurs in footnote 1 of the opinion. (AA1305-Appendix J)

This occurred in a brilliantly devious fashion leaving the door open for plausible deniability - by only some of the culprits. Here is how it works. Page 2 of opinion makes the following statement *"Lorna filed a three and one-half page sworn declaration which included documents attached as exhibits1...."* Now, pay attention, the plot gets interesting, and the criminal behavior occurs right here. The documents

subsequently referenced in the footnote of the opinion ARE ENTIRELY DIFFERENT DOCUMENTS than the 111 pages Exhibits 1-4 that Petitioner filed with the original OSC motion attached to declaration (AA50-165). Any reliance on this false statement in the footnote (which subversively swaps out one set of legal documents consisting of 111 pages, and then fraudulently inserts a different set of evidence consisting of 970 pages) means the 111 pages of originally submitted evidence disappears from the record. It is brilliantly devious, yet criminal. One tiny false statement in the footnote of opinion magically makes 111 pages of evidence disappear, and then enables a claim of inadmissibility due to non conformity to occur on the remaining 970 pages of evidence that was swapped in. This false statement subsequently empowers the author (of the opinion) to then fraudulently attempt to nullify the remaining 970 pages of evidence by falsely stating this evidence was submitted with a *declaration* and required a signature of Petitioner (yet this same evidence, when submitted as evidence at hearing on 10-28-08, as it was, does NOT require a signature and or require the evidence conform to a court filing standard). Because this was submitted as evidence at hearing, no signature was required, yet by fraudulently swapping it in with the original OSC declaration, the author of the opinion can now attempt to nullify it with a non-conformity technicality.

The way the evidence has been deliberately manipulated by the author of the opinion is *deviously*

brilliant, yet completely fraudulent and totally criminal. Yet, true facts are:

1. this evidence was submitted in court at hearing on 10/28/08, and; 2. this evidence was accepted by the court, and; 3. no objections were raised. No objections to the validly submitted evidence ever occurred in the lower court, nor was proposed or briefed. In fact, minute order from 10/28/08 clearly states Petitioner submitted this evidence with NO objections from the court (AA174-Appendix H). In addition, Respondent, Respondents attorney, and Judge Diaz never objected to the submission of this evidence when there were two additional hearings held on this matter 1-28-09 and 4-27-09. (Order-After Hearing AA1295-1296-Appendix B) .

The author of the opinion-Appendix A is engaging in one additional unlawful act that is repeated on many occasions throughout the opinion. The author is attempting to nullify smoking gun evidence of fraud and concealment of assets by Respondent, through raising NEW ISSUES that were not proposed or briefed in direct violation of Government Code section 68081. On nearly each occasion where this occurs throughout the opinion, the new issues raised are legal technicalities that Respondent and his attorneys failed to raise themselves. It is now highly improper and an abuse of discretion for new issues of in-admissibility of evidence to be raised by judges who are expected to remain impartial. The evidence reveals truth (in this case criminal behavior of Mike Roos... ...and perhaps Tom Girardi), yet judges are

introducing technical violations in an attempt to nullify evidence that was designated on appellate record. This behavior is unlawful. (AA1305-1306-Appendix J, AA 45-165, AA175-1144)

False statements about the record in opinion unlawfully enables smoking-gun evidence Exhibits 1-4, (111 pages), to completely vanish from the opinion and appellate record, and vanish from sight. (AA 50-165). Evidence in the 111-page document includes:

- (AA78-147) – New evidence from probate records reveals the existence, ownership, and concealment of The Roos Family Living Trust by Respondent, and (AA135) the fact that Mike Roos was co-trustee during the marriage, and at the time, he filed his Final Financial Statement with the lower court. (AA 156-163)

- (AA165) – New evidence from probate court records reveals the father of Respondent (Walter Roos), died with no will or probate (less than $10,000 estate), and no Trust – This evidence reveals that Respondent made fraudulent representations to the court. It reveals that neither Respondent's mother nor Respondent's father possessed the financial means to make an investment into Commerce Casino. This evidence also supports the allegations by Petitioner of fraudulent conveyances by Respondent, and his role in creating this fraudulent trust AFTER the death of his father – another criminal act.(AA45-1144)

- (AA76) New evidence reveals that Respondent sold the family home for double the price he claimed it was worth with the court. The $1,299,000 price was nearly identical to what Petitioner had claimed it was worth (trial brief where Petitioner contested the value of the family home is now missing from the court docket)(AA636) (no statement of decision has ever been filed by Judge Black on this issue – in an abuse of discretion) (AA734)

False statements about the record in opinion unlawfully enable 970 pages of smoking-gun evidence to completely vanish from sight within the opinion and appellate record. (Case overview exhibit's 1-87, and 105 AA 175-1144). Evidence in the 970-page document includes:

- (AA 261-300) – New evidence that reveals the existence, ownership, and concealment of The Roos Family Living Trust by Respondent from Respondent's mother's probate court records, and (AA447) the fact that Respondent was co-trustee during the marriage, and at the time he filed his Final Financial Statement with the lower court.(AA156-163) Also, no marital transfer occurred from Respondent's father to Respondent's mother per estate tax return.(AA438)

- (AA 334-341) New evidence reveals the mysterious $531,561 in assets WERE NOT owned by the mother of Mike Roos as he fraudulently represented. These assets were transferred from a

mysterious source into the undisclosed Roos Family Living Trust. (AA45-165)

- (AA315) - New evidence from Respondent's mothers probate file reveals the existence and concealment of $1,500,000 assets owned by Mike Roos in Joint tenancy with his mother, yet not disclosed in his Final Financial Statement.(AA156-163)

- (AA206) – New evidence from Commerce Casino K-1 reveals direct ownership by Respondent for year 2004, which was fraudulently conveyed back to himself via the sham Roos Family Trust that Mike had set up for this purpose.(AA45-165)

- (AA517) - New evidence reveals that Respondent sold the family home for double the price he claimed it was worth with the court. This price was nearly identical to what Petitioner had claimed it was worth (AA 636)

- (AA 434 AA454) – New evidence from probate court records reveals the father of Respondent (Walter Roos), died with no will or probate (less than $10,000 estate), no Trust, *and no marital transfer of ANY (AA436-452) Trust assets to his spouse* This evidence reveals fraudulent representations to the court by Mike Roos. It also reveals neither the mother nor father of Mike Roos possessed financial means to make investment into Commerce Casino.(AA45-1144)

- New evidence reveals Tampering with Court Record by the removal of trial briefs from the court record. These missing briefs were validly submitted to the court by Petitioner (AA626-873) and Respondent (AA 875-979) before Judge Black and now Judge Diaz – yet court docket in lower court reveals no evidence of these legal records.(AA625)

- New evidence revealed an undisclosed loan for $128,050 to Don Levin and then to Charles Cunningham, later used by Mike Roos to laundered away undisclosed loan debt on Sacramento property (AA 195-202)

- New evidence reveals prior representations by Mike Roos that 1031 exchange starker occurred was in fact a fraudulent representation, whereby Respondent fraudulently conveyed community property to Don Levin and Respondent's mother without receiving anything apparent in return. (AA985-1002)

- New probate evidence reveals Respondent owned real estate (Iroquois property) in joint tenancy with his mother yet this asset was not listed on his Final Financial Statement that was filed with the court (AA 302-306, AA156-163)

- (AA43) – This new evidence reveals false disclosure and concealment of Stone and Youngberg LLC by Mike Roos at time of the judgment.

- (AA381-382,AA874-973) This is declaration of Respondent's trial testimony. Mike Roos filed this brief with the court 8-16-2001 and is now missing from court docket. Petitioner submitted this brief (a second time, when Petitioner found it missing from court docket) in Case overview that was submitted at hearing before Judge Diaz 10-28-08 as exhibit "51".

- (AA627-873) Petitioner filed this declaration of Lorna Roos trial testimony with the court on 6-15-2002. This brief is now missing from court docket.(AA625) Petitioner had filed and served this brief actually on 7-15th, 2002 with the court. However, the court clerk in Judge Black's courtroom falsely stamped brief as 6-15-2002) Petitioner was forced to re-file this same brief again on 6-20-2003 with the court as Judge Black claimed it was missing from court file.(AA736-738) Petitioner found it missing from court docket again. Then, Petitioner included this brief in Case overview submitted 10-28-08 to the court before Judge Diaz exhibit "50".(AA175-1144)

I. THE OPINION HAS INACCURATELY PRESENTED MATERIAL FACTS AND ISSUES

THE FACTS:

The section in the opinion titled: "FACTUAL AND PROCEDURAL BACKGROUND" Page 2 is materially inaccurate. It inaccurately states, *"Lorna filed a three and one-half page sworn declaration, which included documents attached as exhibit's*[1]" Footnote 1 falsely cites exhibits that were NOT part of her 31/2 page sworn declaration (filed on 9/29/08), but instead were submitted at hearing on 10/28/08. This false statement has a very material impact on this case as it enables the real exhibits/evidence that were attached to the 31/2 page declaration to vanish from sight, and subsequently enable false conclusions to be drawn.

The inaccurate statement above fraudulently re-writes the record (with exhibits that were submitted at a later hearing on 10/28/08) and effectively eliminates the actual evidence that was filed in Petitioner's original OSC motion exhibits 1-4. (AA45-165)

The Chronological Index (Appendix J) of the Appellate Record is very clear on what was actually filed and submitted with the 3 ½ page sworn declaration. Petitioner's original OSC motion was supported by a points &

authorities, and declaration with evidence attached exhibits 1, 2 (declaration Lorna Roos, exhibits A-D) 3, and 4 and was validly signed under penalty of perjury. (AA45-165) Chronological index (AA1305-Appendix J) confirms that Petitioner filed original OSC motion with exhibit's 1-4 on 9-29-08 AA 45 to165. Court docket verifies Petitioner filed OSC motion on 9-29-08. (AA1308- Appendix G)

The opinion falsely states in footnote 1 that a 16 page printout from Petitioners own email with exhibits 1-87 and 105(AA175-1144) served as Appellant's original declaration exhibits. This statement is completely false. Exhibit's 1-87, and 105 were ACTUALLY submitted to the court by Petitioner at hearing held on 10-28-08. Chronological index-Appendix J confirms this to be true. (Case Overview includes 16 pages exhibit's 1-87, and 105 AA175-144) The above false statement in footnote 1 is then used to conclude that these documents *"are not conformed and nothing in the record indicating the documents were lodged with the superior court"* – which is also an inaccurate and false statement. Evidence reveals otherwise.

Evidence in appellate record confirms these documents (AA175-1144) were in fact validly submitted to the court at hearing held on 10-28-08. Minute order from the lower court verifies receipt of this evidence in its statement *"The court must read and consider the large number of documents submitted by Petitioner"* on 10/28/08 (AA174-Appendix H).

Page 2 in footnote 1, the author of the opinion makes another false statement as the opinion states "*the appellant's appendix includes a 16-page print-out of an unsigned email from Lorna to an unknown recipient.*" This is a false statement. It is NOT an email from Lorna to anyone. The source of the printout is email address of Lorna and she emailed this CASE OVERVIEW to herself, and then printed it out.

The document is clearly titled as follows:

"From: Lorna Stevenson Roos

BD202859 Roos v.Roos

CASE OVERVIEW"

As the title of this document clearly states, this is a 16 page CASE OVERVIEW (with exhibits 1-87, 105). This Case overview with exhibit's 1-87, and 105 was submitted by Petitioner to the lower court at hearing held on 10/28/08. Minute order from 10-28-08 provided as AA 174 (Appendix H) confirms the court received and must consider the documents in Case overview. Importantly, the court never objected to this evidence, or raised the issue that this evidence was inadmissible in any way. The court willingly accepted the evidence on the record at hearing on 10-28-08 before Judge Diaz. (AA174-1144)

Despite this evidence, the author of the opinion falsely states, *"the documents are not conformed and there is nothing in the record indicating the documents were lodged with the superior court. In*

fact, the superior court case summary in the record does not include an entry for these documents. Accordingly, we cannot consider these documents because they were not filed or lodged in the superior court." Not only is this ENTIRE statement false, it introduces a new issue (inadmissibility: not lodged and conformed) that was NEVER raised in the lower court, and or briefed on appeal. The magnitude of this error that is used as the basis to dismiss critical evidence (that implicates Mike Roos) is quite disturbing. If the appeals court simply examined the minute order from the Superior court AA174 (Appendix H) in the appellate record the conclusions presented in their opinion would not be possible. Why is the appellate court miss-portraying facts about the court record despite clear evidence on the appellate record that this portrayal in the opinion is false? (AA1305-1306-Appendix J,AA45-165,AA175-1144) Does the court have something to hide? Will anyone be held accountable?

In regards to the motions to augment, (page 2, footnote 1, lines 10-11 of the opinion) the opinion inaccurately states, "*the documents she sought to include in the record were not before the superior court at the time it issued the order.*"This statement is completely false, and it enables the opinion to then deny the motions to augment entirely based on this false statement of fact. Evidence exists that each issue was before the lower court. The evidence that Petitioner sought to include was smoking-gun evid-

ence primarily related to three issues: (AA45-165, AA175-1144, Appellant Docket- Appendix R and MTA -9/18/09, 3/18/10, 3/26/10 -Appendices M-O)

1. The contents of subpoenaed information involving $531,561of assets whereby this subpoena was improperly sealed by Judge Black in the lower court (in an abuse of discretion), and NEW EVIDENCE (existence of the Roos Family Living Trust) that was presented in Case Overview (AA 177, AA 333-367). This evidence was clearly before the lower court, and was designated on appellate record AA 1305-Appendix J) Chronological index Case overview submitted to the court 10-28-08 AA175-1144.(Appellate Docket 9/18/09-Appendix R)

2. The Charles Schwab accounts containing approx $1.5 million was subpoenaed information (by Petitioner) that was satisfied and *was sent directly to the lower court.* Importantly, this evidence was in the hands of the lower court of Judge Black, yet this information was improperly withheld from Petitioner (in an abuse of discretion) by the Judge Black.(MTA, 3/18/10,3/26/10 – Appendices M-O, Appellate Docket-Apendix R, AOB 1-58-Appendix E,ARB1-31-Appendix L)

3. Appellant has presented smoking-gun evidence that audits from The Department of Children and Family Services are not accurate, and has resulted in approximately $924,000+ of false credits in "theft by false audit" unlawfully allocated to Mike Roos. This NEW EVIDENCE was previously unlawfully withheld from Petitioner by DCFS, and the lower court also improperly credited Respondent (in a back-room deal that excluded Petitioner) whereby Judge Black wiped clean $924,000 in

support arrearages owed (in an abuse of discretion – no evidence or logic to justify this action) while failing to provide any: itemized accounting; logic, or; valid basis, for wiping the slate clean. The court has NEVER provided Petitioner with an actual order of the court that documents this back-room deal (despite numerous requests by Petitioner). Denying Petitioner with the actual order is a clear abuse of discretion. Petitioner did present evidence in the case overview regarding this issue "theft by audit" and fraudulent credits given to Respondent on new audits. See AA 181 exhibit 46. (Appellate Docket 3/18/10,3/26/10- Appendix R & M-O, AOB 1-58-Appendix E,ARB1-31-Appendix L)

Top of page 3, the opinion states, *"the case was reassigned several times and hearing on the matter was continued to January28, 2009"* This is a false and misleading statement. This inaccurate statement appears deliberately intended to completely eliminate the hearing that took place on 10-28-08 before Judge Diaz, through re-writing the record. Such a hearing did take place, in which both Respondent and Respondent's attorneys failed to appear. In fact, a response declaration to Petitioner's original OSC motion was filed by Respondent with the court on 10-15-08 (the opinion fails to address important evidence that exists in this declaration AA page 1148). This response accurately confirmed THE EXISITENCE of the UNDIS-CLOSED Roos Family Living Trusts (un-adjudicated asset where Mike Roos was co-trustee of financial assets he had fraudulently diverted to these trusts, while failing to disclose to either Petitioner and the

court), and also confirmed the sale of the family home for $1,299,000 (only 90 days later after entry of judgment, at double the value that Respondent had fraudulently represented to the court that it was worth). Despite this smoking-gun evidence of non-disclosure, and false disclosure by Mike Roos on his final financial statement, Judge Diaz improperly continued the matter (in an abuse of discretion) until 1/28/2009. Under Family code 2122-2129 and 1101 when evidence was validly submitted to the court by Petitioner that Respondent had clearly VIOLATED MANDATORY DISCLOSURE REQUIREMENTS, the court is then REQUIRED BY LAW to give MANDATORY RELIEF: set aside the judgment; award attorney fees; employ a forensic accountant; implement a freezing order on the un-adjudicated assets, and grant discovery to Petitioner. In a violation of the law (and an abuse of discretion), none of this occurred. The evidence submitted by Petitioner clearly reveals that Respondent had breached his fiduciary duty in violation of Family Codes 721,2100, and 1101 and committed fraud and perjury to the court within the meaning of civil code 3294. (AA45-165,AA175-1144,AA1305-Appendix J)
Page 4 of the opinion under the section titled CONTENTIONS, it inaccurately and misleadingly states *"Lorna contends inter alia, that Michael failed to disclose (1) assets in the Roos Family Living Trust, including shares in the Commerce Casino Club ..."* This is a completely false statement.

In fact, Lorna contends and has presented evidence that Respondent failed to disclose the

existence of THE ROOS FAMILY LIVING TRUST on his final financial statement and failed to disclose that he was co-trustee of the Trust. (AA316-324) The concealment of these two facts is what Petitioner is charging. The statement above from the opinion is inaccurate, misleading, and a miss-portrayal of the facts. This miss-portrayal subsequently enables false conclusions to be drawn (because they are supported within the opinion by inaccurate statements of facts and evidence). Respondent had previously fraudulently represented to the court that his mother owned Commerce Casino, whereby evidence now reveals that it was actually owned by the undisclosed The Roos Family Living Trust that Respondent was co-trustee of at the time his final financial statement was submitted to the court The Roos Family Living Trust was NOT disclosed on his Final Financial Statement as required by law (nor the fact that Respondent was co-trustee of the Trust). This false statement of facts by the author of the opinion then enables the author to support his subsequent false conclusions with the inaccurately stated facts and evidence. (AA45-165)

Page 5 of the opinion under the section titled DISCUSSIONS it states *"Lorna did not file any admissible evidence to support the order based on these grounds"* This is a false statement that is materially inaccurate. Petitioner filed her OSC motion with declaration and with exhibits/evidence attached, that was NOT objected to by the lower court.(AA45-165) Petitioner also submitted

additional evidence at hearing held on 10/28/08 in which the court did not object to the submission of this evidence either (AA174-1144, AA1294-1306). This evidence includes:

- The final financial statement of Respondent which was filed with the court on 3/2/2000(AA316-324), trust documents and tax documents that reveal the *existence* of The Roos Family Living Trust on 3/2/2000(AA412-454),
- trust documents that reveal Respondent was *co-trustee* of the Trust(AA(AA412-454),
- real estate broker documents reveals actual sale price of the Roos Family Home(AA516-517),
- a K-1 reveals Michael was an owner of Commerce Casino in year 2004 (indicating transfer back to himself out of sham trust that he had fraudulently created in the name of his mother)(AA203-225),
- and other evidence.

The statement quoted above from the opinion is a false statement of the facts that enables smoking gun evidence of concealment of assets and non-disclosure by Respondent to be dismissed. False statements of fact in the opinion then lead to subsequent false conclusions in the opinion. The statement in the opinion that *"Lorna did not file any admissible evidence"* is not only inaccurate, it raises a NEW ISSUE (not admissible) in violation of Government Code section 68081. No such issue was raised or addressed in the lower court, proposed and or briefed

on this appeal. The lower court cited only "lack of proof" – and this conclusion by the lower court is what is now being challenged by Appellant as an abuse of discretion (Smoking-gun evidence exists, and this evidence was validly submitted to the court, and accepted by the court). (RT 1277-1289, AA1295-1296, AOB26-Appendix E) It is unlawful for the appeals court to improperly introduce this new issue in the Appeals opinion.

Page 6 under *2. Michael's Motion to Quash Subpoenas* the opinion states, *"In her reply brief,... .....Lorna does not however provide any reasoned argument, citation to authority, or citation to the record to support her challenge."* This statement selectively fails to address Appellants response declaration filed with the court on 1/28/09 to Michael's Motion to Quash (importantly: the opinion conveniently omits this response declaration, which was filed by Petitioner in response to Michaels Motion to Quash. (AA1253-1259) The opinion never addresses the issues raised by Petitioner in her response declaration filed and also raised in Appellant's opening brief. When any party has violated their mandatory disclosure requirements (as Respondent has in submitting an inaccurate final financial statement and misrepresentations of key material facts) it is unlawful for any court to prohibit discovery to the fraudulent key material facts given and undisclosed un-adjudicated assets, per family law. The law is quite clear on the mandatory relief to be awarded under Family Code Section 2120-2129 and 1101(h) within the meaning of Civil Code 3294,

which was cited in both Appellant's opening brief (AOB 6,7,26,45,46,47,48,49,56-Appendix E) and Appellant's reply brief (ARB 4,5,13,27,29-Appendix L). If this order is not reversed, a violation of law stands, resulting in irreparable harm and a miscarriage of justice.

Page 6 under 3. In regards to Lorna's motion to freeze assets, *Lorna's motion to freeze assets* the opinion states "*Lorna does not provide any reasoned argument or citation to authority to support her challenge.*" The reasoned argument that Petitioner provided was included with evidence that revealed Respondent had violated his mandatory disclosure requirements, breached his fiduciary duty, made fraudulent conveyances, committed fraud and perjury. Respondent failed to disclose community assets. Mandatory relief provisions require that un-adjudicated assets be frozen until these assets are adjudicated by the court under Family Code 2120-2129 and 1101 within the meaning of Civil Code 3294, as cited in AOB and ARB. In addition, the opinion fails to mention that Respondent filed no objections when Respondent's attorney was served with Petitioner's motion to freeze assets yet Judge Diaz denied this mandatory freezing order, in violation of the law. If this freezing order motion is not reversed, a violation of law stands, resulting in a miscarriage of justice. (AOB 57-Appendix E)

Page 7 the opinion states, *"The declaration did not constitute admissible evidence because it was not signed under penalty of perjury"* This is a false claim. The first page of the document referenced in opinion

was clearly signed by Petitioner (see AA 1260), and also clearly states on front page "I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct." Respondent, Respondent's attorneys, nor the lower court ever objected to this filing being signed on the front page. This new objection of in-admissibility not valid because it is supported by falsely stated facts in the opinion. This issue raised by the author of the opinion was never raised by Respondent, and or Respondent's attorney in the lower court, and was not proposed and or briefed in direct violation of Government Code 68081.

III. VIOLATED GOVERNMENT CODE SECTION 68081 BY INTRODUCING NEW ISSUES

THE FACTS:

Government Code Section 68081 requires a rehearing when an appellate court "renders a decision in a proceeding based upon an issue which was not proposed or briefed by any party to the proceeding." (*People v. Alice* (2007) 41 Cal. 4th 688, 679.) On ten separate occasions the appellate opinion-Appendix A (which is NOT a party to the proceeding) raised an issue that was not proposed or briefed by either party (page 2 footnote 1 line 1,5,7,8,9,11, page 3 line 24,page 5 line 18,page 6 line 11,12,14,19,20,21,26,27). Appellate filed Petition for rehearing on the basis that the appeals opinion directly violated Government Code Section 68081 by introducing new issues that were never before the lower court and never proposed, and or briefed. (see:

Petition for rehearing). In a violation of Government Code Section 68081 the appeals court denied Appellant's petition for rehearing and judicial notice. Page 2 footnote 1 of the opinion, the author of the opinion states, *"the documents are not conformed, and there is nothing in the record indicating the documents were lodged with the superior court. In fact, the superior court case summary in the record does not include an entry for these documents. Accordingly, we cannot consider these documents because they were not filed or lodged in the superior court."* This statement is false, and is evidenced as materially false as the court docket AA1308-Appendix G specifically states "*OSC-other filed by Petitioner on 9-29-08"* and this filing is designated on the Chronological Index as pages AA45-165,AA1305. The case overview additional evidence was submitted on 10-28-08 and can be verified by the minute order AA174-Appendix H, as it states: "*the court must read and consider the large number of documents submitted by petitioner."* No objections occurred. Additionally, the statement above from the appellate opinion introduces a new issue of in-admissibility of evidence that was NEVER raised in the lower court, proposed, and or briefed in direct violation of Government code section 68081. The magnitude of this error in technically dismissing smoking gun evidence of fraud by Respondent (in concealment of assets, breach of fiduciary duty, false misrepresentation of material facts, and fraudulent

conveyances) is troubling. If the appeals court had simply reviewed the appellate record - the conclusions reached in the opinion would not be possible. A main reason that the appellate record exists, is to prevent a false re-writing of the record. (AA1305-1306-Appendix J)

Additionally, Respondent and Respondent's attorneys nor the lower court NEVER raised the issue or objection that they were not properly served, and or did not receive these documents referenced in the statement (Case over view 16 pages with exhibit's 1-87, and 105) above from the opinion. (AA175-1144) In fact, Respondent's attorney confirms receipt of the case overview (16 pages with exhibit's attached as 1-87 and 105) page 6 of RRB-Appendix K. Furthermore, both Judge Diaz and Respondent's attorney signed an ORDER AFTER HEARING (Appendix B) that represented *"after reviewing the pleadings filed by the parties as well as other documents in the file..."* (filed with the court on 6-11-09). (Copy AA1295-1296).

This evidence amply reveals that Respondents attorney Jordan Metz knew the true facts yet deliberately committed perjury to the court (in violation of Calif. Penal Code 118) by falsely stating material facts within RRB-Appendix K. This perjury is now being amplified in the appeals opinion with the voice of the court, and used as the basis to unlawfully dismiss 1081 pages of evidence. Appellant requests that the Supreme Court sanction Jordan Metz and Kenneth Nahigian for knowingly

and maliciously making false statements to the court in the RRB-Appendix K, and refer this matter to the State Bar for disciplinary actions (ARB 1-31-Appendix L).

In a court of law, there is a proper time and place for objections to occur. The same is true for legal issues. New issues and objections are being raised for the first time in the appeals opinion and were NEVER made at the time and place required by law. Respondent and the lower court made no objections of in-admissibility due to non-conformity, or that documents or evidence was not properly served. Judge Diaz accepted *this evidence* willingly at hearing on 10-28-08, (AA174-Appendix H) and there were several hearings on the matter. The objections and issues being raised in the appeals opinion about admissibility of evidence were never raised in the lower court, proposed, and or briefed on this appeal. Petitioner properly served Respondent, Respondent's attorney, and the lower court with the designation of the record and still no objections were raised. Additionally, many issues and objections to admissibility of evidence that are now occurring in the opinion from the appeals court were NEVER raised in RRB-Appendix K. The time for objecting to the designation of the record has long past. It is HIGHLY IMPROPER for the author of the opinion from the appeals court to now raise new issues and new objections on behalf of Mike Roos. *This behavior by the appeals court is improper, reveals bias, is an abuse of discretion, and smacks of judicial misconduct.*

IV. FAILS TO ADDRESS CRITICALLY IMPORTANT ISSUES AND EVIDENCE

THE FACTS:

"A rehearing may be granted on the ground that the court's opinion . . . failed to address any material issue." (Eisenberg, Horvitz, and Wiener, Civil Appeal and Writs ¶ 12:16 (The Rutter Group 2007), citing (*In re Jessup's Estate* (1889) 81 Cal. 408, 471.)

AOB1-58-Appendix E, ARB 1-31-Appendix L, AA45-165, AA175-1144,AAI-V-Appellants Appendices

- No trial occurred before Judge Diaz
- No trial occurred before Judge Black either, as the briefs (trial testimony) are missing from court docket(AA625)
- No statement of decisions filed by Judge Black when requested to do so by Petitioner in brief that is missing from court docket violation of Civil Code of Procedure 632 and Family Code 3654.(AA734) The trial Court had a mandatory duty to provide this statement as it was properly requested by Petitioner. Failure of Judge Black to issue statement Judgment reversible per Civil Code 632. (*Miramar Hotel Corp v. Frank B Hall & Co* (1985) 163 Cal. App. 3d1126,1129)

  No statement by trial Court results in a remand ordering the Court to issue such a statement. (*In re marriage of S.* (1985) 171 Cal. App. 3d 738,751.)
- No final financial statement given to Petitioner 45 days prior to first day of trial 3-9-2000 in violation of Family Code 2105 (a) (b).

- No statement of decisions on fraudulent support orders (AA734)
- No discovery given to Petitioner when it was mandatory and warranted
- $924,000+ in arrearages of Mike Roos wiped clean by Judge Black retroactively using third party checks in a back room deal without any motion being filed and or order entered in direct violation of Family Code 17400 (a) (c), Family Code 3651(c), and Family Code 4009. (AOB 2,3,50,51,52-Appendix E) Judge Webster at the D.A. had previously refused to grant these credits because he knew it was illegal.
- Fraudulent credits given to Mike Roos at DCFS "theft by false Audit."
- No money and financial resources given to Petitioner throughout the entire divorce and post divorce proceedings for an attorney and this created for unfair orders and judgment as Respondent was well represented by attorneys though out divorce and post judgment proceedings
- The failure of both Judge Black and Judge Diaz to hear Petitioner's motions filed and paid for with the lower court
- Fraudulent judgment entered 6-4-2004 (AA523-530) to be set aside and support orders Family Code Section 3690 & 3691.
- Despite Mike Roos unlawfully removing the name of Lorna Roos from all of the financial assets Judge Black did nothing.

- Despite the request by Lorna Roos for a ruling that would give her the financial assets to hire an attorney Judge Black and Judge Diaz did nothing
- Despite the request to join, Respondent's mother and Leslie Reilly Judge Black did nothing when both parties were FINANCIALLY tried to community assets.
- Despite the fact that Petitioner filed OSC motion with evidence 111 pages AA 45-165 and submitted additional evidence case overview 970 pages AA 175-1144 in the lower court, the appellate court has now failed to consider and or address any of this evidence in the opinion.

V. INCORPORATES CASE LAW THAT IS IRRELEVANT

THE FACTS:

The appellate opinion introduces 5 cases.

As one examines these cases, two things become apparent: 1. no specificity exists in narrowing the case quoted to specific issues, and 2. the common theme in cases is nullifying evidence through introducing technical violations that make evidence or arguments inadmissible. This behavior in the opinion is biased and improper because it is siding with Respondent. It unlawfully cites the entire case in a way that incorporates new issues and objections (not raised by Mike Roos), nor proposed or briefed.

These cases introduce issues that could harm

Appellant at the Supreme Court level. The author of the opinion has found a back-handed way of inappropriately acting as the attorney of Respondent, by now introducing new issues and objections that Mike Roos failed to address in the lower court, in his reply brief, and or oral arguments. Such new issues in the cited cases include: Statute of limitations claim; no discovery and non-disclosure harm- less error; mistake omitted asset under Family Code 2556; sanctions and attorney fees for meritless claim; and due process disabled waived.(Opin.1-7-Appendix A)

SUMMARY

The appellate opinion:

- has unlawfully eliminated evidence from the appellate record in direct violation of Federal Rules of Appellate Procedure Circuit Rule 10
- inaccurately presented material facts and issues
- has violated Government Code section 68081 by introducing new issues,
- fails to address important issues and evidence contained in the appeal

"[p]rocedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." Thus, the required elements of due process are those that "minimize substantively unfair or mistaken deprivations" by enabling persons to contest the basis upon which a State proposes to

deprive them of protected interests. The core of these requirements is notice and a hearing before an impartial tribunal. Due process may also require an opportunity for confrontation and cross-examination, and for discovery; that a decision be made based on the record, and that a party be allowed to be represented by counsel.
Ballard v. Hunter, 204 U.S. 241, 255 (1907); *Palmer v. McMahon*, 133 U.S. 660, 668 (1890).

In regards to NEW ISSUES raised in opinion, the entire position adopted by the author of the legal opinion is quite interesting. Can it really be true, that when smoking-gun evidence of criminal behavior has been validly submitted to the court by the victim of the crime (Appellant).... ....and the criminal (Mike Roos) has overlooked a variety of legal technicalities that might be employed to nullify the smoking-gun evidence of fraud, embezzlement, and concealment of assets... ...that Judges of the appeals court will unilaterally come to the rescue and volunteer to use their legal knowledge and legal services to raise these new technical objections on behalf of the criminal... ....in the hope of that the criminal can run free and continue to hone his craft on other lucky victims in society. Whooaa.....? ...yet, does the objective evidence point to any other possible conclusion? The dots all seem to align perfectly in this way. (Opin. 1-7-Appendix A)

CONCLUSION

THE FACTS, THE EVIDENCE, AND THE LAW WARRANT THE FOLLOWING and Petitioner respectfully requests the following of the court.
(AOB 1-58-Appendix E, ARB 1-31-Appendix L, AA I-V-Appellants Appendices volumes I-V)

1. Grant Petitioner's set aside motion on divorce judgment, including support orders, with an immediate order to reverse the unlawful $924,000+ in third party credits previously granted to Respondent.
2. Deny motions to quash (by Mike Roos) on evidence regarding un-adjudicated assets that was subpoenaed by Petitioner.
3. Grant motion to Freeze Assets filed by Petitioner,
4. Grant Petitioner full discovery.
5. Grant Petitioner money for attorney and forensic accountant.
6. Award Petitioner 100% of the undisclosed value of the family home $649,000 (AA 516-517),
7. Order the immediate unsealing of the subpoenaed evidence from Imperial Bank showing the maker and offset of the $531,561. (AA384-390,AA333-335)
8. Respondent should be ordered to return all of Appellant's & Appellant's twin-

sister's personal belongings.(AA175-191)

Award Petitioner and her twin-sister the following embezzled, undisclosed, and concealed assets (their separate property paid for these investments in the Roos Family Trust) pursuant to Family Code 2122-2129 within the meaning of Civil Code 3294: 1.) Roos Family Living Trust (AA 260-300), 2.) Exempted Trust EIN # 33-6088274 (AA 260-300), 3.) Commerce Casino at least 20 shares: 10 shares Melissa Walker's name, 10 shares Respondent's name, and the ill-gotten gains from this investment (interests were transferred via Roos Trust (AA 203-254). Award Petitioner the following assets 1.) Joint tenancy assets with Respondent's mother total $1,500,000 (AA 314-315), 2.) Stone & Youngberg L.L.C. (AA 43), 3.) Mike Roos & Company(AA 17), 4.) Iroquois property joint tenancy (AA 301-306), 5.) Prudential account (AA 307-313), 6.) life insurance policy (AA 45-165, AA 175-1144).

Award Petitioner assets that were fraudulently conveyed: 1.) 64,000 separate property (AA55-61), 2.) $100,000 falsely awarded to Mike Roos separate property gift from mother (AA 362-367), 3.) Reverse $100,000 given to Respondent's parents, (AA175-191) 4.)

> Reverse money fraudulently given to John Burton, Arnold Forde, Don Levin, John Karns, and Respondent's mother. (AA175-191) Appellant will need a trial.....

In closing, this case needs to be turned over for criminal prosecution as the case fundamentality involves criminal behavior committed by Michael Roos, my former husband, who has fraudulently, stole and embezzled community assets, fraudulently conveyed separate property during our marriage and at the time of dissolution of the marriage. Michael Roos perpetrated these unlawful acts through a number of techniques and nefarious behavior, which include:

- Sham trusts, (Why is this a sham trust? Because the sole purpose of the trust is to embezzle assets out of marriage in a way that conceals ownership and control until a time when it is more convenient to assert direct ownership and control.)
- Fraudulent real estate transactions (the fraudulent 1031 starker exchange agreement and undisclosed $128,050 loan on Sacramento), and
- Fraudulent misrepresentations of material facts and fraudulent valuations (parents were broke, dad died no will and or probate, false value on home, no value placed on Mike Roos and Company (Stone and Youngberg) false portrayal of rich mother affected many assets,)

- Fraudulent characterization of separate property and community assets(prevented discovery)
- Provided a Fraudulent financial statement filed with the court (that he submitted to the lower Court (non-disclosure of assets), and)
- Committed Perjury on all income and expense statements filed with the court (regarding income and expense statement)

Appellant was prevented from bringing much of this behavior into the light of day in the lower court due to judicial misconduct that involved:

- abuse of discretion regarding new evidence (of 1, Commerce Casino K1, Stone and Youngberg interest revealed it was a marital asset- Mike Roos and company had value never disclosed, sale of family home, Fraudulent sham undisclosed trust, dad died no will and or probate and:. Fraudulent phony 1031 starker exchange (undisclosed loan discovered on Sacramento property) mothers probate file discovered sham trust undisclosed assets (joint tenancy accounts 1,500,000) all this evidence revealed fraud, concealment of assets, embezzlement of assets and perjury to the court by Michael Roos)
- denial of discovery, and
- denial of the financial resources for proper representation.

Petitioner prays that all costs of this appeal be taxed against Respondent.

Dated: November 26th, 2010
Respectfully submitted,

Lorna Roos In Pro Per
1482 East Valley, #305
Santa Barbara, CA 93108
(805) 845-8395

Abbreviations
and
Documents lodged with the clerk

AA- Appellant's Appendix volumes I-V (lodged with the clerk of U.S. Supreme Court)

AOB-Appellant's Opening brief Appendix "E"

RRB-Respondent's Reply brief Appendix "K"

ARB-Appellant's Reply brief Appendix "L"

OA- Oral Arguments (CD lodged with clerk)

OP-Opinion of Court of appeals Appendix "A"

AD- Appellate Docket Appendix "R"

PFR-Petition for rehearing (lodged with clerk)

PFR-Petition for review (lodged with clerk)

MTS-Motion to strike Appendix "S"

MTA-Motions to augment Appendices M-O

JN- Judicial Notice Appendix "P"

Appendix A

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

COURT OF APPEAL-SECOND DIST
FILED
JUN 23 2010
JOSEPH A. LANE CLERK
DEPUTY CLERK

In re the Marriage of LORNA and MICHAEL ROOS.

B216438

(Los Angeles County Super.Ct. No. BD202859)

LORNA ROOS,
Appellant,

v.

MICHAEL ROOS,
Respondent.

APPEAL from an order of the Superior Court of Los Angeles County, Rudolph Diaz, Judge. Affirmed.

Lorna Roos, in pro. per.

Appendix A

Law Offices of Goodman and Metz and Jordon Metz for Respondent.

INTRODUCTION

This is a marital dissolution case. Lorna Roos (Lorna) appeals a post-judgment order denying her motion to set aside the judgment, granting the motion of Michael Roos (Michael) to quash Lorna's subpoenas, and denying Lorna's motion to "freeze assets." We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Michael and Lorna Roos were married in 1988 and permanently separated in 1999. They have two daughters: Caroline born in 1991 and Catherine born in 1993. After Michael and Lorna separated, Lorna commenced a marital dissolution action.

In April 2004, the superior court held a trial regarding the issue of division of property. On June 4, 2004, the court entered a judgment. The judgment divided the community personal and real property and declared certain assets separate property. The judgment also required Michael to pay Lorna $6,958 per month for child support and $10,000 per month for spousal support for two years, and then $8,000 per month for spousal support until the death of either party, the remarriage of Lorna, or further order of the court.

Appendix A

On September 29, 2008, Lorna filed a motion to set aside the judgment dated June 4, 2004. Lorna alleged that the judgment should be set aside on the grounds of actual fraud, perjury, mistake, and failure to comply with disclosure requirements. With her motion, Lorna filed a three and one-half page sworn declaration, which include documents attached as exhibits.1

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1 The appellant's appendix also includes a 16-page print-out of an unsigned email from Lorna to an unknown recipient, dated October 27, 2008, along with an exhibit list of 88 exhibits and copies of those exhibits. Although Lorna contends that these documents were "submitted" to the court on October 28, 2008, in support of her motion to set aside the judgment, the documents are not conformed and there is nothing in the record indicating the documents were lodged with the superior court. In fact, the superior court case summary in the record does not include an entry for these documents. Accordingly, we cannot consider these documents because they were not filed or lodged in the superior court. (*Sahadi v. Scheaffer* (2007) 155 Cal.App.4th 704, 723.) Likewise, we deny Lorna's motions to augment the record because the documents she sought to include in the record were not before the superior court at the time it issued the order Lorna appeals.

After Lorna filed her motion, the case was reassigned several times and the hearing on the matter was continued to January 28, 2009. In the meantime, on January 7, 2009, Lorna served four subpoenas seeking documents relating to Michael's finances, including Michael's tax returns. The

subpoenas were served on Michael, Michael's accountants, and two other third parties.

On January 14, 2009, Michael filed a motion to quash the subpoenas. Subsequently, the trial court set the hearing on Lorna's motion to set aside the judgment and the hearing on Michael's motion to quash on April 27, 2009.

On April 15, 2009, Lorna filed an ex parte motion for an order "(1) freezing [Michael's] assets including Commerce Casino Card Club interest held by [Michael] and [Michael's] sister, Melissa Roos Walker; (2) prohibiting the destruction or alteration of any documents; (3) requiring [Michael] to submit a full accounting of all assets wrongfully transferred via the concealed sham trust/fraudulent Roos Family Living Trust, tax returns on Mike Roos individual [*sic*], Mike Roos and Company, the Roos Family Living Trust, and any and all EIN tax returns not disclosed as previously requested in subpoenas issued for hearing the set-side motion and Mike Roos needs to provide a current final financial disclosure within 10 days; (4) pulling the passports of both Mike Roos and Melissa Roos Walker until there is a complete accounting of all monies received from Commerce Casino Card Club so the losses and damages sustained to [Lorna] and [Lorna's] twin sister can be completely recovered and satisfied (5) joining [Lorna's] twin sister, Leslie Stevenson Reilly to the case and (6) authorizing expedited discovery for set-aside motion to be heard on April 27th, 2009."

This motion was based on the same documents filed with the motion to set aside the judgment, as well as an unverified eight-page declaration. We shall refer to this motion as Lorna's "motion to freeze assets."

On April 15, 2009, the court denied Lorna's motion to freeze assets without prejudice on the ground that Lorna did not provide notice to Michael. However, the court stated that the motion would be considered on April 27, 2009, provided Lorna gave Michael notice.

On April 27, 2009, the superior court denied Lorna's motion to set aside the judgment, granted Michael's motion to quash, and denied Lorna's motion to freeze assets. This appeal followed.

CONTENTIONS

Lorna makes numerous arguments regarding alleged errors made by the superior court over an extended period of time. However, Lorna's notice of appeal only relates to the superior court's order dated April 27, 2009. We shall limit this opinion to the Lorna's appeal of that order.

Lorna's primary argument is that the superior court abused its discretion in denying her motion to set aside the judgment. The gravamen of Lorna's argument is that the judgment should be set aside because Michael committed actual fraud and perjury by lying about his assets and failing to disclose assets to the trial court. Lorna contends, inter alia,

that Michael failed to disclose (1) assets in the Roos Family Living Trust, including shares in the Commerce Casino Club, (2) accounts he held in joint tenancy with his mother, (3) his interest in various businesses, and (4) accounts with Charles Schwab, Bank of America and Wells Fargo. She also contends that Judge Kenneth Black of the superior court "fraudulently" gave Michael certain credits against his support obligations. Lorna seeks, among other relief, an order vacating the judgment, granting her attorney fees, "freezing" Michael's assets, and allowing her to conduct discovery.

DISCUSSION

1. *Lorna's Motion to Set Aside the Judgment*

Family Code section 2122 provides: "The grounds and time limits for a motion to set aside a judgment, or any part or parts thereof, are governed by this section and shall be one of the following:

"(a) Actual fraud where the defrauded party was kept in ignorance or in some other manner was fraudulently prevented from fully participating in the proceeding. An action or motion based on fraud shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the fraud.

"(b) Perjury. An action or motion based on perjury in the preliminary or final declaration of disclosure, the waiver of the final declaration of disclosure, or in the current income and expense statement shall be

brought within one year after the date on which the complaining party either did discover, or should have discovered, the perjury.

"(c) Duress. An action or motion based upon duress shall be brought within two years after the date of entry of judgment.

"(d) Mental incapacity. An action or motion based on mental incapacity shall be brought within two years after the date of entry of judgment.

"(e) As to stipulated or uncontested judgments or that part of a judgment stipulated to by the parties, mistake, either mutual or unilateral, whether mistake of law or mistake of fact. An action or motion based on mistake shall be brought within one year after the date of entry of judgment.

"(f) Failure to comply with the disclosure requirements of Chapter 9 (commencing with Section 2100). An action or motion based on failure to comply with the disclosure requirements shall be brought within one year after the date on which the complaining party either discovered, or should have discovered, the failure to comply."

We review a trial court's order denying a motion to set aside a judgment for abuse of discretion. (*In re Marriage of Brewer & Federici* (2001) 93 Cal.App.4th 1334, 1346.)

Lorna contends that the judgment should have been set aside by the trial court based on Family Code section 2122, subdivisions (a), (b), and (f). However, Lorna did not file any admissible evidence

to support an order to set aside the judgment based on these grounds. Lorna's declaration in support of the motion consisted of mainly arguments, conclusionary statements, and allegations against Michael and the trial judge.

For example, Lorna stated the following in her declaration: "How could this [trial] court not allow proper discovery and award [Michael] every single asset in dispute based on fraud, malice, and oppression? The court at a minimum should have demanded the tax records from [Michael] and a current appraisal on the family home as the fraud, perjury, mistakes, and failure to comply with disclosure requirements would have been discovered much earlier. It's just criminal that all the orders on this divorce case have been based on actual fraud, perjury, mistakes, and failure to comply with disclosure requirements." These statements are conclusionary arguments; they are not evidence of actual fraud, perjury or a failure to disclose.

We have reviewed Lorna's declaration and the exhibits attached thereto and cannot find any *evidence* of actual fraud, perjury, or failure to disclose by Michael, or any misconduct by the trial court. Accordingly, we hold that the trial court did not abuse its discretion in denying Lorna's motion to set aside the judgment.

2. *Michael's Motion to Quash Subpoenas*

Appendix A

In a marital dissolution case, the superior court has discretion to allow a party to conduct post-judgment discovery relating to community estate assets or community estate liabilities that were not previously adjudicated by the judgment. (*In re Marriage of Hixson* (2003) 111 Cal.App.4th 1116, 1120-1121; Fam. Code, § 2556.) We review the superior court's decision to deny or limit post-judgment discovery for abuse of discretion.
(*In re Marriage of Hixson*, at p. 1121.)

In her reply brief, Lorna states that she is challenging on appeal the superior court's decision to grant of Michael's motion to quash Lorna's subpoenas. Lorna does not, however, provide any reasoned argument, citation to authority, or citation to the record to support her challenge. Accordingly, the issue of whether the trial court abused its discretion in quashing Lorna's subpoenas is forfeited. (*In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 830 (*Falcone & Fyke*); *Nelson v. Avondale Homeowners Assn.* (2009) 172 Cal.App.4th 857, 862 (*Nelson*).)

3. *Lorna's Motion to Freeze Assets*

Lorna also challenges on appeal the superior court's denial of her motion to freeze assets. But Lorna does not provide any reasoned argument or citation to authority to support her challenge. The issue of whether the superior court erroneously

denied her motion to freeze assets is thus forfeited. (*Falcone & Fyke*, *supra*, 164 Cal.App.4th at p. 830; *Nelson*, *supra*, 172 Cal.App.4th at p. 862.)

We nevertheless reviewed Lorna's declaration in support of her motion to freeze assets dated April 15, 2009. This declaration did not constitute admissible evidence because it was not signed under penalty of perjury. (Code Civ. Proc., § 2015.5.)

Moreover, the declaration mainly consisted of conclusionary arguments and unsupported allegations against Michael, the trial judge, the district attorney's office, and others.

Based on the evidence presented to the superior court, or lack thereof, the superior court did not abuse its discretion in denying Lorna's motion to freeze assets.

DISPOSITION

The order dated April 27, 2009, is affirmed. Michael Roos is awarded costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

KITCHING, J.

We concur:

KLEIN, P. J.

CROSKEY, J.

Appendix B

Jordan Metz
State Bar No. 167355
GOODMAN & METZ
17043 Ventura Boulevard
Encino, California 91316-4128
Telephone (818) 386-2889
Facsimile (818) 986-2889

Attorneys for Respondent
MICHAEL ROOS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

In Re the Matter of: CASE NO. BD 202859

LORNA ROOS Hon. Rudolph Diaz
Department 83

Petitioner,

and ORDER AFTER HEARING

MICHAEL ROOS DATE: April 27, 2009

Appendix B

TIME: 1:30 P.M.

Respondent. PLACE: Dept. 83

_____/

The above-entitled matter came on regularly for hearing on the Motion to Set Aside Judgment dated June 4, 2004 filed by Petition-

1

ORDER AFTER HEARING

er; the Motion to Quash filed by Respondent, and Petitioner's *Ex Parte* Motion Freezing Assets. Petitioner, Lorna Roos appeared *in pro per* and counsel Jordan Metz of the Law Offices of Goodman & Metz appeared on behalf of Respondent, Micheal Roos, the Honorable Rudolph Diaz Judge, presiding.

After reviewing the pleadings filed by the parties, as well as other documents in the file and after taking testimony of the parties and hearing oral argument from counsel, the Court ruled as follows:

1. Petitioner's Motion to Set Aside Judgment dated June 4th,2004 is denied.
2. Respondent's Motion to Quash Subpoenas Duces Tecum is granted.
3. Petitioner's *Ex Parte* Motion Freezing Assets is denied.

Appendix B

APPROVED AS TO FORM AND CONTENT:

Dated:_____,2009 Dated:_____, 2009

Lorna Roos	Jordan Metz
Petitioner In Pro Per	Attorney for Respondent Michael Roos

IT IS SO ORDERED

Dated:_____, 2009

JUDGE OF SUPERIOR COURT

Appendix B

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Dept: Dept. CE 83

Date	04-27-09			[CE 83]	
Honorable	RUDOLPH DIAZ	Judge	G REGALADO	Deputy Clerk	
Honorable		Judge Pro Tem	M. BAXTER	Court Assistant	
13	J. PENA	Deputy Sheriff	J. HOLLIFIELD #12564	Reporter	

1 30 p.m. BD202859

Roos, Lorna (X) — Counsel For Petitioner — In Pro Per (x)

VS

Roos, Michael (N/A) — Counsel For Respondent — JORDAN METZ (X)

Nature of Proceedings: PETITIONER'S MOTION- TO SET ASIDE JUDGMENT; RESPONDENT'S , MOTION TO QUASH; PETITIONER'S EX-PARTE APPLICATION TO FREEZE ASSETS.
T

The matter is called for hearing.

Petitioner's motion to set aside judgment is denied.

Respondent's motion to quash is granted.

Petitioner's ex parte application to freeze assets is denied.

Counsel for respondent shall prepare an Order After Hearing.

DEPT Dept CE 83 [CE 83]

MINUTES ENTERED 04-27-09 COUNTY CLERK

Appendix C

Court of Appeal, Second Appellate District, Division Three-No. B216438

S184605

IN THE SUPREME COURT OF CALIFORIA

En Banc

In re the Marriage of LORNA ROOS and MICHAEL Y. ROOS.

LORNA ROOS, Appellant,

v.

MICHAEL Y. ROOS, Respondent.

SUPREME COURT
FILED
SEP – 1 2010
FREDRICK K. OHLICK CLERK
Deputy

The Petition for review is denied.

GEORGE

Chief Justice

Appendix D

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

DIVISION 3

July 12, 2010

Lorna Roos
1482 East Valley Road #305
Santa Barbara, CA. 93108

LORNA ROOS,
Petitioner and Appellant,
v.
MICHAEL Y. ROOS,
Respondent.

B216438
Los Angeles County No. BD202859

THE COURT:

Petition for rehearing and the request for judicial notice is denied.

Cc: All Counsel
File

Appendix E

IN THE COURT OF APPEALS OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION THREE

LORNA ROOS
PETITIONER AND APPELLANT

APPEAL NO. B216438

v.

SUPERIOR COURT NO. BD202859

MICHAE Y ROOS

RESPONDENT

APPEALS FROM JUDGMENTS OF LOS ANGELES
THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
SUPERIOR COURT JUDGE RUDOLPH DIAZ
AND JUDGE KENNETH A. BLACK

APPELLANT'S OPENING
BRIEF

Lorna Roos In Pro Per
1482 East Valley Rd. #305 Encino,
Santa Barbara, CA. 93108
(805) 845-8395

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STATEMENT OF THE CASE

Lorna Roos appeals from post judgment orders in this dissolution case based on fraud, perjury, breach of fiduciary duty, failure to disclose, abuse of discretion, political corruption, judicial misconduct, and an unfair playing field. AA 1292-1296

On July 17th, 2007 The District Attorney forced Lorna back to Judge Black in Pro Per for new support order be heard before the very Judge who had issued fraudulent support orders in the first place that were not calculated using tax returns when Respondent committed perjury on all income and expense statements filed with the court. AA 1319:5-7, AA 576-598 Judge Black granted third party check credits retroactively to order 11-15-94 for Respondent as support toward his arrearages case with the District Attorney of $924,000, after Judge Webster from the District Attorney heard the case and refused to grant Respondent any credits as Respondent did not come with clean hands and checks were made out to third parties not Lorna Roos. AA 180- 181, AA 586-590 The District Attorney had granted six to ten hearings on this matter for Respondent and Judge Webster finally took the matter off-calendar for Respondent's failure to comply with Family Code 17526. AA 1325-1326,

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AA 579 Respondent failed to appeal the District Attorney's court order on this matter. AA 1325 Instead, Respondent got the case transferred behind Lorna's back without any stipulation signed by Lorna to have another Judicial officer take the case which was in direct violation of Civil code 1008 as Respondent was presenting no new facts or law when Judge Black credited Respondent on the very same third party checks presented at the District Attorney that Judge Webster denied, Judge Black retroactively wiped clean any arrearages case at the District Attorney for Respondent as an open arrearages case would prevent Respondent from being issued a Gaming License by Attorney General Bill Lockyer. AA 583-584 Respondent should never have been issued a Gaming License and Respondent should have been criminally prosecuted for not paying Court ordered support by the District Attorney and or Attorney General. AA 574 This was in direct violation of Family Code 17400 (a) (c) on support arrearage cases and how our District Attorney would allow this to happen was unconscionable and Lorna has never received any signed orders by Judge Black and or the District Attorney on how credits were calculated and or applied to the arrearages case everything has been done behind closed doors including audits at Children and Family welfare services without Lorna's participation whereby Lorna was left without the proper orders to do an appeal and left in

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Pro Per with no representation to preserve her rights and children's. AA 576-581

In addition, Judge Black fraudulently granted more credits for Respondent when Judge Black knew or should have known all support payments were going through the court trustee and a check for $185,000 to Lorna Roos never went through the trustee and was not a support payment yet Judge Black gave double credit to Respondent on the divorce as a divorce equalization check for $185,000 and then $185,000 as support on the arrearages case with District Attorney, $20,000 check was also credited for Respondent for Janus fund in divorce Judgment and then as support at District Attorney by Judge Black(AA 899) , and Respondent received credit for half payment to Page Private School on the divorce by Judge Black when Lorna had paid the school directly with borrowed funds the entire bill so Respondent should not have received half credit on Page school bill at the District Attorney unbeknownst to Lorna which affected her current support and was in direct violation of Family Code 17400 (a) (c) on support arrearages. AA 663, AA 575-598 Every time Lorna inquired about her case with the District Attorney, the District Attorney claimed to be obtaining current tax returns from Respondent and they would correct support orders issued by Judge Black as support orders were not

calculated based on tax returns and would collect on the arrearages case as the equalizing divorce judgment check and third party checks presented by Respondent doesn't count as support as Judge Black fraudulently gave credit retroactively for these checks but the District Attorney never did anything but stall Lorna so Lorna was forced to a state hearing on the matter as the District Attorney allowed audits to be done behind Lorna's back whereby she was not allowed to participate in any and or see anything signed by Judge Black done behind closed doors with the fraudulent credit calculations done whereby Lorna has never received any of these orders and or calculations that were applied and now stand whereby the District Attorney failed to send Lorna any paperwork to this affect as well. AA 575-598

On 11-30-2007 Lorna was denied discovery and due process by Judge Black on all orders during the divorce process and Judge Black refused to hear OSC's filed by Lorna and refused to sanction and or hear In- Contempt charges when Respondent and Jordan Metz attorney for Respondent had once again refused to produce any financial records, tax returns, and or satisfy subpoenas when information being sought was required to move forward on support order hearing to be calculated on accurate and complete information. AA 1308, AA 552-559, AA 175 These

subpoenas were never satisfied which was in direct violation of Family Code 3667.

On 4-1-2008 Judge Black ignored the new overwhelming evidence and material facts revealing major fraud and perjury by Respondent from the limited subpoenas that were satisfied at court for support order and put on record by Lorna as Lorna had just recently figured out from k-1 form sent to courthouse from Commerce Casino and new evidence information gathered from Respondents mothers probate file that Respondent did indeed own the Commerce Casino during the marriage whereby Respondent failed to disclose the Roos Trust during all divorce proceedings that Respondent was a co-trustee/ owner of the trust and main asset of the Trust was the Commerce Casino 20 shares that Respondent falsely represented to the court and Lorna was his mothers separate property. AA 63-165

Also, Lorna noticed on Stone and Youngberg k-1 form and Rick Marcus declaration that was received on support order motion that Mike Roos' status was married for tax basis when the L.L.C. was formed between Respondent and Stone & Youngberg whereby Respondent had failed to disclose Stone & Youngberg on his final financial disclosure and proved Respondent had committed perjury he concealed this material fact and claimed Mike Roos & Company had no value little income $20,000 a month if that at trial. AA 493 495, AA 43

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Lorna immediately notified the court of newly discovered evidence which was put on court record by Lorna 4-1-08 exposing Respondent had committed perjury, kept material facts concealed and failed to disclose sale of the family home (AA76), the Roos Trust (AA 87-125), EIN #33-6088274 Exempted trust (AA 136), ownership of Commerce Casino (AA121), income from Commerce Casino (AA204-225), ownership of joint tenancy accounts totaling $1,500,000 in assets as stated by Respondent in Respondents mothers probate file. (AA 315: 21), ownership Stone & Youngberg (AA 43), income from Stone & Youngberg (AA 43), Mike Roos & Company, and true income from Mike Roos & Company as Lorna just recently discovered should have been a community asset because Respondent failed to disclose Mike Roos & Company and Stone & Youngberg partnership LLC. AA 17, AA43

Judge Black knew none of these concealed assets were disclosed by Respondent on his final financial disclosure dated 3-1-2000 as his separate, quasi-community, and or community property only the family home was disclosed but was undervalued by Respondent which was in direct violation of Family Code 1101(h). AA 156-163

Judge Black should have ordered Respondent immediately forfeit the difference in the under value price placed on the family home by Respondent and the sale price profit attained on the family home by Respondent and Judge Black should have ordered

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Respondent forfeit all the concealed assets the Roos Trust assets, EIN 33-6088274 Exempted Trust assets, Commerce Casino Club 20 shares, Mike Roos & Company, Stone & Youngberg interest, and joint tenancy accounts totaling $1,500,000 as stated in Respondents mother's probate file in their entirety as requested by Lorna in her filing on April 1st, 2008 as Lorna was denied discovery during all the divorce proceedings because of Respondents non disclosure and perjury as Respondent falsely portrayed his mother owned Commerce Casino as her separate property and Respondent never disclosed the existence of the Roos Trust that he was a co-trustee/owner and was fraudulently created by Respondent and his mother during the marriage to embezzle assets. AA 341, AA 63-154, AA 326-330

Also, on 4-1-08 Judge Black refused to have Mike Roos and or his accountant sign I.R.S. tax verification forms for tax returns when requested to do so by Lorna and was now warranted with the non-disclosure and breach of fiduciary duties by Respondent as he violated Family Code 1101 (h) within the ambit of section 3294. AA 74 AA 175 Judge Black knew Respondent concealed income from Commerce Casino during all the divorce proceedings as he failed to disclose the 20 shares of Commerce Casino as per trust AA 87-136 AA 317-324 Respondent now claimed he only received $18,136 a month for year 2007 on an interest of

.0682594/ 10 shares in Rick Marcus declaration and was never included in calculation for support. AA 39 Respondent knew that this income represented only 10 shares of ownership not the full 20 shares that were concealed as Respondent had now parked 10 shares with his sister Melissa Roos Walker. AA 133:5 The k-I form sent to the court house is for .0682594%/10 shares with income of $270,261 a year. AA 204-225 Respondent attempted to disclose only income on 10 shares not the full 20 shares as the income on this asset should be closer to $50,000 monthly for an interest in Commerce Casino 1.36%/ 20 shares as listed in concealed and fraudulently created Roos Trust. AA 121, AA 204-225

Judge Black never required Respondent and or his accountant Rick Marcus to turn over tax returns for Respondent, Mike Roos & Company, The Roos Family Trust, and EIN #33-6088274 Exempted trust when subpoenaed to do so to verify income and or ownership of income producing assets as requested by Lorna when Judge Black knew Respondent had committed fraud and perjury on every previously filed income and expense statement and Respondent failed to disclose these assets on his final financial disclosure filed 3-2-2000 (AA 156- 163)and the clear and convincing evidence put forth by Lorna on 4-1- 2008 proved Respondent to be a outright lair and criminal. AA 1235-1250, AA 45-165

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On 8-29-08 Judge Black issued another support order using no tax returns but used instead a declaration unaudited and prepared by Respondents accountant Rick Marcus (AA 1-44) and accountants testimony which was in direct violation of Family Code 3665 (a) (b) as the order should have been calculated using prior year's federal and state tax returns because Respondent had a creditability problem. AA 1308-13, AA 631-738 Lorna was denied attorney fees and was not qualified to do a support order with only a high school education when Respondent was represented by counsel and had refused to turn over any tax returns or audited financials when subpoenaed to do so. AA 63-74 Judge Black knew this was the same accountant that helped Respondent deceive Lorna and Leslie into thinking that there was a valid 1031 starker exchange and helped perpetuate fraud by Respondent and his mother whereby they had claimed ownership for mother on family home when Respondent's mother never invested any money and had embezzled assets separate property of Lorna and Leslie Stevenson's, quasi-community, and community assets through the use of fraudulent documents like the starker exchange agreement and now new evidence revealed the concealed Roos Family Trust and exempted trust. AA 69, AA 175-190

Once again Lorna was forced to file another motion in Pro Per, Lorna filed to have

judgment dated 6-4-04 set aside and for attorney fees on 9-29-08 in Judge Black's courtroom based on the fraud, perjury, breach of fiduciary duties, and non-disclosure by Respondent. AA 1308:9-10, AA 45-165

The Roos v. Roos matter was transferred to Los Angeles Superior Court to be reassigned on 10-28-08. AA 1318

On 10-27-08 Jordan Metz attempted to get motion to set aside Judgment dated 6-4-04 dismissed before even heard by telling Lorna she did not need appear on 10-28-08 case was assigned to Judge Mike Convey and motion would be heard on November 12th, 2008. AA 170-171 As Jordan Metz did not send Lorna anything to this effect so Lorna called the court and found out her case had been transferred to Commissioner Mike Convey as requested and stipulated by Jordan Metz and hearing for November 12th was not on calendar. AA 172-173 Lorna never stipulated to have Commissioner Convey hear the case and Jordan Metz attempted to have the case heard and dismissed day before scheduled hearing date for non-appearance by Lorna. AA 166-173

On 10-28-08 Roos v. Roos was assigned to Judge Rudolph Diaz. AA 172-173 Matter was called to hearing and Lorna submitted a case overview full and frank disclosure outlining the many acts of fraud and embezzlement by Respondent in support of motion to set aside Judgment dated 6-4-04 and for attorney fees. AA 174 Lorna was forced

to do this case overview full and frank disclosure for the new Judge as Lorna discovered previous trial briefs were now missing from court docket (AA 625-873), no statement of decision was ever issued by Judge Black on the case which was in direct violation of Civil Code 632 Family Code 3654 when Lorna had requested Judge Black issue one in her written trial brief(AA 734), and there was additional recently discovered new evidence proving Respondent had committed money laundering with his mother and Don Levin through the use of a fraudulent starker 1031 and Respondent had fraudulently created the Roos Trust with his mother to embezzle assets including the separate property of Leslie Stevenson and Lorna Stevenson, quasi-community, and community property. AA 175-1144

Lorna had recently discovered new evidence that Respondents' father died with no will or probate (AA 165) making the whole trust fraud as Walter Roos was listed as an original co-trustor and there was no pour over will and or trust for Walter Roos proved no valid transfer ever took place on assets to the Roos Family trust and all third party evidence proved the trust never existed before Walter Roos died. AA 175-1144

The Commerce Casino dividend checks had Malissa W. Roos trustee (AA 401-407) if the trust was a valid trust the checks would of had The Roos Family Living Trust by name as per the fraudulent trust document (AA 87-125) the

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Commerce Casino investment would never have legally transferred any of the assets to Malissa W. Roos' by name upon Walter Roos' death the Commerce Casino would have remained in the name of the trust as all third party evidence revealed Malissa W. Roos trustee and further proved no valid trust ever existed. AA 178 Respondent parked the Commerce Casino interest in Malissa W. Roos' name to conceal ownership of the asset, dividends paid (ill gotten gains), and to hide the fraudulent Roos family trust that Respondent and his mother had created as co-trustees to steal embezzled assets and income from Lorna and Leslie Stevenson. AA 179

Also, in Respondents mothers probate file a minute order states correctly Walter Roos' paperwork was incomplete because Respondent failed to show proof of will, and or trust for Walter Roos when he died which meant the trust in mothers probate listing Walter as co-trustor was fraud as the trust never existed at the time of Walter's death. AA 432 Respondent had to include Walter Roos' as an original co-trustor because Respondent had parked the Commerce Casino Investment in his father's name first to avoid criminal prosecution with the F.B.I. (Mike Roos held elective office as a State Assemblyman, had the personal relationship with Patrick Moriarity, and it was against the law for Respondent to hold an interest in Commerce Casino) and then Respondent parked the Commerce Casino interest in his mother's name so Lorna and Leslie

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Stevenson would be prevented from proper discovery on this asset if they discovered the 1031 starker was fraud their money embezzled by Respondent and then Respondent fraudulently created the trust with his mother after a brief separation from Lorna and a deposit of a suspicious check of $531,561 (which Lorna alleged in the divorce was an insurance settlement check for Leslie Stevenson Reilly)

thinking it would be impossible for Lorna and Leslie Stevenson to get any discovery during a possible divorce proceeding and Respondent wanted to control the ill gotten gains dividend checks paid as Respondent was already spending the money further harming Lorna Respondent decided to use community funds of $25,000 to pay John Karns (AA 57, AA 859) for preparing the trust documents and will of mother so Respondent could later claim there was a valid trust to avoid paying probate taxes upon his mother's death then transferred all the embezzled assets back to himself using this fraudulently created trust that the community paid to construct. AA 175 -1144 Once again Respondent controlled all the transactions, using his attorneys and accountants and authored and manufactured documents according to what Respondent needed them for money laundering, embezzlement, and concealment of assets. AA 175-193

Most importantly, evidence revealed the parents of Respondent have never been capable of making meaningful investments and or

loans to others and their income has always been at subsistence level and neither received any inheritance. AA 188 Walter Roos was forced to work as a stock clerk at Wal-Mart to make ends meet, lived on Social Security, and died virally broke. AA 176 Respondents mother lived on Social Security and died with less than $20,000 going through her probate estate. AA 227-251, AA 176 Respondent's parents never had the means to make such an investment and when the federal investigators from the District Attorney's office out of Orange County investigated the source of funds used by Walter Roos they determined Walter Roos' did not have the means to make the investment. AA 176 Respondent was very aware of the fact that Walter Roos only had a magnitude of $15,000 in assets as a source of funds, and Respondent was attempting to claim to his attorneys Jack Quinn and David Kenney that he had personally loaned his father $50,000 and the additional funds of $35,000 came from yet another unidentified source. AA 256-259 The correspondence was between David Kenney (same attorney used on Malissa Roos' probate file and the fraudulent creation of the trust, also Respondent was executor of mothers probate file) of Karns and Karabian and Jack Quinn of KPWQ&R who are attorneys working on Respondents behalf. AA 256-259

All meaningful assets and investments in possession of Respondents mother

was acquired during Lorna and Mikes' marriage as a result of diverting the community and or separate property of Lorna and Leslie Stevenson's through criminal activities of Respondent. AA 188 In Respondents mothers probate file there was a Petition for determination of proration of estate taxes and it stated all the meaningful assets were either held in joint tenancy with Respondent and Respondent's mothers name or in Roos Family Living Trust that Respondent controlled and failed to disclose as his separate property totaling at least $1,500,000. AA 315: 21 Respondent falsely testified the Iroquois property his mother lived in had never been given to him and or his sisters any interest in this property when Lorna claimed the property was part of the community estate Respondent knew the Iroquois property was held by Respondent and Respondents mother in joint tenancy and Respondent committed perjury and failed to disclose this asset as his separate and or community property. AA 302-306

Also, Respondent failed to disclose he was a special co-trustee within the Roos Trust whereby Respondent owned life insurance policies on his parents. AA 261-300 In addition, Respondent failed to disclose Prudential account that was originally accounted for on his mothers probate Inventory and Appraisement but then subsequently taken off by Respondent because Respondent claimed

it was a joint tenancy account with his mother. AA 308-313

Lorna alleged in her written trial brief filed with the court but was later listed on court docket as not received that Respondent had stolen the money from sale of Sacramento to pay back Don Levin for an undisclosed loan whereby Respondent used the funds to make the investment into Commerce Casino but Lorna was unable to find the undisclosed loan because Lorna had her files stolen from the courtroom on first day of trial 3-9-00 (AA 600-606) and Lorna was never allowed discovery on this asset and or given an opportunity to have the stolen records replaced by Judge Black. AA 175-193 Judge Black allowed two days of trial to proceed from 3-9-00 to 3-10-00 without a final financial given to Lorna it wasn't until Lorna was made aware of a final financial and given a copy on 4-17-00 then Respondent claimed he filed one with the court on 3-2-00. AA 317-324 Judge Black knew that the 45 day rule had been violated but failed to make Lorna aware of the Family Code 2105 as Judge Black denied Lorna discovery on assets listed on Respondent's final financial disclosure. AA 705-706, AA 637 Judge Black closed trial on 3-10-00 and allowed Respondent then attorney Robert Newell to have a meeting with Judge Black to discuss the possible outcome as Lorna had not discovered everyone had kept her from knowing about the support order that was on file and Respondent's

attorney at trial asked questions of Lorna about Respondents financial abuse and it just got worse and worse for Respondent as Respondent had taken Lorna off all bank accounts many times over and refused to pay bills in her name alone whereby Respondent had ruined Lorna's credit because of this abuse. AA 708-738

Lorna's evidence proved in trial brief filed with court the check proceeds from sale of Sacramento property went directly to Don Levin and Respondents mother yet Judge Black refused discovery. AA 673-674 ,AA 632-738 Lorna went everywhere even Sacramento and searched all the files connected to the fraudulent 1031 exchange trying to figure out what exactly happened. AA 175-193

Lorna just recently discovered there was a fraudulent transfer of title on Sacramento property to Don Levin by Respondent as no exchange of property occurred and all sale proceeds went to Don Levin and Respondents mother. AA 814-817 Respondent falsely attempted to state his mother owned land on Kenilworth and 1031 starker exchange had purchased 25% interest in land that Respondents mother never owned and or purchased and was already owned by the community in full so then Respondent claimed his mother owned a 1/3 interest in family home for unpaid bogus loan for purchase of land, and then Judge Black ended up awarding $64,000 to Respondent in Judgment as his separate contribution without any

third party verification other than some authored and manufactured documents by Respondent asking for a proposed contribution $60,000 be made into house from his parents for 1/3 ownership interest that parents never made as it was Lorna's twin sister Leslie that made the contribution to the family home for $97,000 with checks submitted to prove the community took money for construction phase on home but was ignored by Judge Black . AA 1103, AA 524-530 Leslie Stevenson has never been paid back a dime for $97,000 investment made into Kenilworth and Leslie and Lorna Stevenson have never received a dime from their investment made into Sacramento property as Respondent was able to divert all the money from Sacramento property making it look like a starker 1031 happened when the sale proceeds were used to pay back Don Levin for undisclosed loan. AA 1309-1062, AA 985-1002 Don Levin and Respondent laundered away undisclosed loan to Charles Cunningham in the amount of $128,050(AA 195-202) which Lorna just discovered was intentionally concealed with the use of fraudulent 1031 starker exchange as a cover story. AA 985-1002, AA 175-193

Respondent personally used Sacramento property as collateral to get loan for $128,050 from Don Levin without permission from Leslie and or Lorna Stevenson as the loaned money was diverted and used to purchase the investment into Commerce

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Casino Respondent and Don Levin kept this material fact and fraudulent undisclosed loan concealed. AA 195-202, AA 175-193 The $128,050 concealed loan was later assumed by Charles Cunningham as new evidence proves two loans being conveyed on Sacramento property. AA 198 Respondent had Lorna and Leslie into thinking the money went into Kenilworth home and Don Levin's strongest banking relationship was with First Regional Bank who created a deceptive letter stating a pay down occurred on the construction loan when in the same letter it states a reversal was done a few days later to correctly state there was a reversal on the construction loan of the amount borrowed not paid down. AA 1064 Respondent fraudulently took Leslie Stevenson off title on Sacramento property forging her name on a quick claim deed to make the transaction possible. AA 1004-1026

Also, Respondent made many false claims of borrowing from his mother including a loan for $164,000 for purchase of two lots #538 and #540 on Kenilworth and Respondent closed escrow on these two lots on their wedding day 9-16-88 and evidence revealed Respondent took out a deed for $100,000 from Jack Jefferies owner total purchase price of actually $100,580 (AA 1083) for two lots not $164,000 as alleged by Respondent and very first payment was made with community funds on loan. AA 188 Tax information on sale states land value for lot #538 at $85,000 and lot #540 at $6,399 when

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Respondent bought the lots and then Respondent reported land value prices changed when Respondent sold one lot to Arnold Forde for $130,000 but reported the value at #538 $85,000 and #540 $79,000 to match Respondents prior lie of $164,000 for the lots and then Respondent had the county assessor's office change the APN #'s to bury the fraud committed as Respondent did not report the correct sale price $130,000 for one lot sold to Arnold Forde. AA 1090-1099, AA 188 Respondent showed no check from his mother in amount of $164,000 but Judge Black awarded Respondent with separate property contribution $64,000 in Judgment dated 6-4-04. AA 58 Respondent gave testimony he paid his parents back $100,000 when one lot sold to Arnold Forde (close friend of Respondent used as a conduit) for $130,000 and never explained what happened to remaining $30,000. AA 888 Respondent paid Jack Jefferies $100,000 to release lot to sale to Arnold Forde then Respondent took out undisclosed loan with Arnold Forde for $75,000 but doesn't record undisclosed loan until few months later on Keniworth home. AA 892 Respondent collected $75,000 from Arnold Forde and $130,000 from sale of one lot from Arnold Forde but instead had Arnold Forde funnel his parents $100,000 and then paid Jack Jeffries $100,000 leaving a concealed undisclosed loan for $75,000 that the community had to service and pay off as Respondent had the deed of trust recorded on Kenilworth home. AA 497-508

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Respondent prepared deed of trust with Arnold Forde in favor of Respondents mother first than it was transferred to Arnold Forde later Respondent admitted forging Lorna's signatures (AA 878-879) on these loan documents and Respondents mother was present as well. AA 188 Respondent and Respondents mother learned how to steal money out of the marriage on Kenilwoth property by creating debt and diverting funds and then the community repaid the debt. AA 187-188 Lorna never got discovery on where the $100,000 went that was funneled to Respondents mother as Judge Black never held Respondent and or Respondents mother accountable for their non-appearance at court and for not satisfying validly served subpoenas. AA 635-639 Respondent used this same method of fraud on a John Burton loan $50,000 as well and Lorna never got behind where that money went as Judge Black denied discovery on all these financial transactions. AA 510 No third party evidence was presented by Respondent that proved his mother ever loaned the community money in fact the evidence revealed it was Respondents mother that received monies from the community and never repaid the community whereby Lorna was denied discovery because Respondent falsely claimed his mother had borrowed on behalf of the community, loaned, and gifted monies from her separate property investment into Commerce Casino. AA 179 Respondent testified he re-financed the family home on Kenilworth once for a

better rate and made substantial principle payments to the loan using community funds (AA 513) but evidence revealed loan debt on Kenilworth was actually higher than 10 years previous which proved Respondents testimony was false yet Judge Black did not let Lorna have discovery on Kenilworth property to figure out how much money Respondent and Respondents mother embezzled and had diverted elsewhere as Lorna has no idea where $50,000 John Burton loan (AA 510), $75,000 Arnold Forde loan (AA 497-508), $100, 000 to mother on lot sale (AA 888), $15,000 from construction loan sent directly to Malissa W. Roos (AA 1068), approx. $55,000 paid falsely to Mike Roos from construction loan(AA 1070-1071),sale proceeds from Griffin Park condo (AA 1032 -1035) , and sale proceeds from Sacramento (AA 803) etc.. AA 667-683

Also, Judge Black inappropriately carved-out and awarded Respondent investment assets that existed in community owned investment account at Charles Schwab that Respondent failed to disclose on his final financial and should have immediately forfeited the $300,000 on this account but Respondent claimed the money was from Prop 10 on Mike Roos & Company of $300,000 supposedly paid to the community in installments of $25,000 a month in 1998 went to Charles Schwab but disappeared and was never accounted for but the community paid tax on this amount on the 1999 tax return and Judge Black never included the $25,000 a month from prop

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10 in the support order either and or granted Lorna any credit on Mike Roos & Company as Respondent claimed he only had one client prop 10 but was no longer his client and Respondent claimed he was grossing only $20,000 a month because of this. AA 875-899, AA 1101-1117, AA 659-660 Respondent should have been ordered to forfeit $300,000 because Respondent had failed to fully disclose the account and Lorna still does not know what happened to prop 10 money of $300,000 as she was denied discovery on that asset. AA 875-899, AA 188 Also, Respondent had claimed in his final financial community owned security assets of $300,000 Respondent (AA 1102)used this tactic of same amounts with no account numbers to get double credit which he has become a professional criminal at by using the method over and over again and when Respondent failed to list account numbers on his final financial

Lorna requested Judge Black to demand Respondent file a new final financial statement because of Respondents deceiving methods Lorna wanted the financial completed with the proper verifiable information to include all bank accounts, mutual funds, life insurance, brokerage accounts, trust accounts etc... AA 789-790, AA 784-785 Judge Black refused to demand Respondent file out a complete final financial disclosure. AA 733-734

Respondent controlled all paperwork on financial transactions, even authored and manufactured evidence in advance of getting

caught on fraud to cover up embezzlement and undisclosed loans with Don Levin, Arnold Forde, and John Burton. AA 175-1144

Respondent and or his attorneys have not sent a Response to Lorna disputing any material facts put forth and or evidence in case overview full and frank disclosure outlining many acts of fraud and embezzlement by Respondent and or filed a Response with the court to case overview when Respondent was served to do so 1-16-09. AA 1308:7, AA 175-1144 Respondent has never appeared again at court since fraud was put on the record 4-1-08 only his attorney Jordan Metz has appeared on his behalf at all scheduled hearings. AA 1307-1326 (court docket incorrectly lists Respondent in Per Pro when Respondent was represented by counsel)

On 1-14-09 Diane Goodman filed Ex-Parte motion to Quash for Respondent in Judge Amy Pullman's courtroom without proper notice given to Lorna and motion was denied but matter was set for hearing 1-28-09 granting shorten of time for Respondent when Respondent had already failed to file within the time frame allotted for an objection. AA 1318 Lorna did not receive order until 1-27-09 which read Response due 1-21-09 and reply 1-26-09. Diane Goodman failed to give notice to Lorna. AA 1252

On 1-27-09 Lorna received motion for quash filed by Diane Goodman on behalf

of Respondent scheduled to be heard the following day. AA 1172-1252 Lorna immediately responded and brought the courts attention to the fact Diane Goodman was engaging in criminal, malicious, and unethical behavior. AA 1255-1257 Diane Goodman claimed subpoenas for set aside motion were irrelevant and immaterial because previously issued subpoenas for support order were allegedly quashed by Judge Black. AA 1255-1256 Judge Black never granted motions to quash on support order motion and Diane Goodman knew her claims were false as Goodman and Metz represented Respondent on support order motion and never filed for motions to quash with Judge Black. AA 1255-1256

Judge Black never required subpoenas be satisfied as Judge Black used an unaudited declaration prepared by Rick Marcus and no tax returns to determine support order in direct violation of Family Code 3552 . AA 1-44 for the record prior subpoenas issued asked for information regarding income for support order and have never been properly satisfied, and would have been required by a reasonable Judge knowing facts on this case and Judge Black should have demanded information being sought to determine income and value of assets that were embezzled, undervalued, and concealed by Respondent. AA 1255-1257 Subpoenas for set aside motion still need to be satisfied to determine assets that have been hidden

by Respondent and would also help determine the extent of fraud involved in case. AA 1257

Goodman & Metz and Respondent have interfered with all subpoenas, due process, and told them to not respond. AA 1255-1257 Diane Goodman wanted sanctions and attorney fees when Diane Goodman falsely claimed Lorna harassed Respondent because Lorna asked for what any reasonable person would ask who for third party verification as Respondent was guilty of lying, concealing assets, perjury and fraud. AA 1172-1250

Diane Goodman should be sanctioned for supplying the court with false information, delaying justice, taking up valuable courts time, maliciously sending Lorna a motion with no time to respond, and interfering with due process. AA 1257 Lorna requested previously filed In-Contempt charges on Respondent and Jordan Metz be heard by Judge Diaz as they were put off calendar by Judge Black as Respondent and attorneys refusal to satisfy subpoenas and interference with subpoenas had become an issue again. AA 1256 Diane Goodman never appeared at court for Respondent in support of Ex-parte motion she filed on 1-14-09 it was Jordan Metz who appeared on behalf of Respondent on 1-28-09. AA 1318 Also, Diane Goodman never appeared at court after Lorna filed a response to motion to quash. AA 1253-1259, AA 1318

On 4-15-09 Lorna was forced to file in Pro Per for Ex-Parte Freezing Assets and

other relief to protect Lorna and Leslie Stevenson's interests as Judge Diaz put off hearing set aside motion from 10-28-08 to 4-27-09 which violated the 180 day Rule as original motion was filed 9-29-08 and Judge Diaz had failed to order Respondent turn over any financials, and or satisfy outstanding subpoenas which let valuable time go by with no discovery and Lorna and Leslie Stevenson might lose their chances for full recovery of their embezzled assets from Respondent as Respondent has now closed his offices of Mike Roos & Company and moved into Stone & Youngberg offices as Respondent has already transferred embezzled assets through a fraudulent 1031 exchange that rightfully belongs to Lorna and Leslie Stevenson parked in mother's name through use of yet another fraudulent document the sham Roos trust to Respondent and his sisters and had accounts set up in Bahamas and had the records sealed in Bahamas in advance of getting caught on fraud. AA 1260-1274

Also, on 4-15-09 Lorna requested TRO criminal protective order be issued because Respondent was served with case overview full and frank disclosure outlining his many acts of fraud and embezzlement and Respondent knows with the new evidence he will be prosecuted to full extent of law when case is turned over to proper authorities for prosecution it's just a matter of time and Respondent had already forced Lorna and the children to move from Lorna's hometown of Los

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Angeles to Santa Barbara because of prior threats by Respondent, constant harassment and abuse and because of this Respondent does not have any legal or physical custody of the girls and Respondent has just sent a disturbing note to their daughter Catherine Roos after receiving the case overview and is in violation of court order. AA 1260-1274 Judge Diaz denied Ex-Parte Motion Freezing Assets and Other Relief on 4-15-09 but indicated matter would be heard 4-27-09 provided Lorna gave proper notice to Respondent. AA 1275

At 4-27-09 hearing Lorna turned over to Judge Diaz proof of service verifying motion for freezing assets and other relief was served on Respondent and Respondent never sent Lorna and or filed with court a Response to Motion Freezing Assets and Other Relief with court when served to do so. AA 1279-1280 RT 1-2 Judge Diaz falsely attempted to claim motion was Ex- Parte motion for hearing on 4-27-09 and falsely claimed this was first time Judge Diaz had seen motion when the facts and evidence reveal otherwise. AA 1281-1282 RT3-4 Minute order 4-15-09 clearly states Judge Diaz read and considered moving papers on Motion for Freezing Assets and other Relief. AA 1275 Judge Diaz claimed there was no need to consider Motion for Freezing Assets and Other Relief as Motion to Set Aside was denied because Judge Diaz claimed there was no basis and or lack of proof when the evidence and material facts proved otherwise. AA 1283 RT 5

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There was abuse of discretion by Judge Diaz as no reasonable competent Judge would come to these decisions that Judge Diaz had after reading and reviewing the new over whelming evidence and material facts set forth in case overview outlining many acts of fraud and embezzlement that included Respondent had concealed and never disclosed the Roos Trust which was recently discovered by Lorna that Respondent was a co-trustee/ owner and Respondents conduct constituted fraud within the meaning of Civil Code 3294 was supported by substantial evidence as main asset of the concealed fraudulently created trust was Commerce Casino 20 shares that Respondent falsely maintained was his mothers separate property. AA 45- 165 AA 175-1144 Adding insult to injury Judge Diaz then grants Respondents Motion to Quash. AA 1287 RT9

Lorna was in disbelief as this was the case that Family Code 1101, (h) was passed to address. That law provides that if a spouse breaches the disclosure duty in a manner that is oppressive, fraudulent or malicious, remedies "shall include, but not be limited to, an award to the other spouse of 100 percent, or an amount equal to 100 percent, of any asset undisclosed[.]" (Family Code 1101 (h)) AA 1277-1289 RT 1-10

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STATEMENT OF APPEALABILITY

This appeal is from the judgment of the Los Angeles County Superior Court and is authorized by the Code of Civil Procedure, section 904.1, subdivision (a) (1).

STATEMENT OF THE FACTS

Lorna Stevenson Roos and Michael Y. Roos were married on September 16th, 1988. They first separated on September 16th, 1994, but reconciled shortly thereafter. AA 175-193 They separated again on February 19th, 1999. AA 175-193 They have two minor children and Lorna has full physical and legal custody of Caroline born 11-14-91 and Catherine born 2-3-93. AA 515

Lorna has been denied equal access to representation throughout this whole divorce dissolution without any resources which was in direct violation of Family Code 2030. AA 1265 Judge Black and now Judge Diaz have refused to allocate any money for an attorney for Lorna when she requested money for an attorney and reimbursement for attorneys and court costs on all filings. AA 48 Judge Black knew or should have known Respondent was financially abusing Lorna as Respondent was in arrearages on support, Respondent left Lorna carless, destitute, and Respondent was in possession of all separate, quasi-community, and community property of Lorna's even took Lorna's settlement check of $185,000 on the

divorce and applied that to support and then Judge Black signed off on this and Lorna has been denied orders to this effect in order to prevent a fair appeal. AA 175-1144 There has not been a fair playing field on this case as Lorna was and is disabled and has been forced in Pro Per with only a high school education and Respondent has been to law school, been through the divorce process before, been able to have representation, all filings done by expert attorneys the best money can buy and does not have to appear at court. AA 1265

Let's not forget Respondent failed to inform Lorna that her doctor had called the house and told him that a mole biopsy came back cancerous and Lorna did not get proper treatment as she did not know of this until it started hurting her which was months later. AA 750 Lorna was diagnosed with Addison's disease 2-12-99 weighing only 90 pounds and was diagnosed with derma to fibro sarcoma cancer on 4-5-99 when Respondent was informed of this November 1998. AA 728- 729 , AA 750 Lastly, Respondent was unbelievable cruel leaving Lorna with no money and or way to pay to get prescriptions filled at the pharmacy for her Addison's disease medicine that had to be taken daily to stay alive and without it you will die, basic survival with no credit credits to use as Lorna's credit was already ruined by Respondent because Respondent refused to pay for any medical costs prior to separation to the tune of $200,000 and left most of the community debt unpaid

on all of Lorna's credit cards whereby Judge Black did not award Lorna any Epstein credits for these bills when Lorna requested credit in her further trial brief yet Respondent was given Epstein credits for bills he didn't pay. AA 727-730

Lorna was rushed to trial without a final financial given to her until 4-17-00 at court whereby Respondent filed with the court on 3-2-00 and first day of trial was 3-9-00 and trial ended on 3-10-00 this was in direct violation of Family Code 2105(a) and Lorna just realized this truly affected the trial as she was denied discovery on the assets and was not an attorney. AA 175-193 Judge Black never allowed discovery for Lorna but instead reopened for Respondent to grant possession of the family home to Respondent on Ex-parte motion without notice given to Lorna keeping all her possessions, to grant credits on the arrearages case with District Attorney, and to grant Respondents separate property that Respondent falsely claimed was a gift from mother as Respondent was not going to be awarded the family home, credits on arrearages, and or $100,000 gift from mother when trial ended on 3-10-00 as Respondent failed to address these issues at the two original trial days of 3-9-00 and 3-10-00. Lorna has had time to reflect and now believes Judge Black made Respondent and Lorna put additional trial briefs in writing to manipulate the court docket dump incriminating records and then Judge Black purposely put off hearing property

issues for Respondent and granted no discovery for Lorna when it was warranted when there was a suspicious check of $531,561 and Respondent had a creditability problem, Judge Black successfully delayed and delayed put the trial off until 4-2-2004 thinking Respondent would keep all assets as they knew Lorna was not well and there was a real possibility Lorna would die before a judgment was entered so Leslie Stevenson Reilly would never be able to prove insurance fraud was committed by Tom Girardi on the $531,561 check paid to Respondents mother fraudulently when Leslie Reilly had suffered a broken neck and was permanently disabled. AA 1119 Judge Black had no valid reason to put off a property judgment for over 5 years from separation date while Respondent was able to further financially abuse Lorna and the children keeping her broke to not be able to fight. AA 175-1144

In all the dissolution proceedings Respondent never had to turn over any tax returns, audited financials, and or subpoenaed information when Judge Black knew Respondent was not truthful as the third party evidence proved Respondent was a lair and had committed perjury and fraud. AA 175-1144

Judge Black thwarted and prevented all efforts by Lorna to obtain tax returns (AA 552-572) and subpoenaed records that were needed to do new support order to correct fraudulent support orders previous issued by Judge Black that

was in direct violation of Family Code 3552. AA 175-193 Judge Black calculated support orders on 4-2-04 and 6-4-04 based on fictitious lifestyle figures from year 1999 the $14,500 a month was actually the earned income paid by Learn to Respondent completely ignoring an additional $25,000 a month that was from Mike Roos & Company prop 10 which went through the joint checking account every month for a total of over $40,000 monthly minimum lifestyle should have been as the tax records proved $526,000 approx. per year monthly $40,000 plus whereby Judge Black completely ignored evidence that Respondent was earning millions $900,000 in 9 months and Respondent was never required to turn over current tax returns and Judge Black issued all support orders without using the income and expense statement required and or tax returns instead he accepted a profit and loss unaudited statement and testimony from Respondents accountant to calculate the new child support order. AA 875-899, AA 782-784, AA 658, AA 983, AA 1-44 The original order from 1994 was calculated on $225,000 and Lorna tried to get new order issued in 2000 at the District Attorney as Respondents income was significantly higher and or lifestyle at the time of separation tax return 1999 $527,000 was much higher but both the District Attorney and Judge Black delayed and delayed and failed to hear Lorna's motions for a new support order (AA 1325) as Respondent was already in arrearages on support

whereby the court failed to increase support accordingly. AA 586-590, AA 180 Judge Black then put off Lorna's motion for new support order and wiped clean Respondent's arrearages owed at the District Attorney with no evidence of support ever paid. AA 576-598 Judge Black finally grants an upward order on 4/2004 and then again two months later grants another small upward modification in order to quote the Hoffmeister II case as Judge Black knew he was in direct violation of Family Code 4320 as Lorna was disabled and was abused. AA 534-543 Judge Black further penalized Lorna for filing for new motion for modification of support by doing an automatic step down on her spousal support paid from $10,000 to $8,000 a month when Lorna informed the court she was disabled and filed the appropriate statement under perjury that she was not making any money. AA 530, AA 545 Lastly, Judge Black fined Lorna $750 for trying to get a restraining order renewed on Respondent when it had expired. AA 1309:9, AA 1319: 7-10

In all the dissolution proceedings Respondent never disclosed the existence of the sham Roos Trust that Respondent was a co-trustee and main asset of trust was the Commerce Casino interest 20 shares. AA 175-1144

In or about 1999 -2000 in connection with dissolution of their marriage Respondent falsely represented to the court and Lorna that his mother owned an interest in

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Commerce Casino AA 398, AA 347 Respondent falsely claimed his mother had borrowed $50,000 for C.D. to get construction loan on Kenilworth property that was never exercised . AA 821-822, AA 1066 Respondent falsely claimed his mother made loans to the community for purchase of land two lots on Kenilworth for $164,000 when the evidence proved otherwise that Jack Jefferies was the only lien holder for $100,000 and the only receipt was for a purchase price of $100,580 for two lots of land. (AA 1083 - 1085) Respondent first claimed the community paid his parents back $100,000 on bogus $164,000 loan then Respondent falsely claimed Respondents mother owned a 1/3 % interest in family home due to same bogus loan for $164,000, then Respondent falsely claimed the starker exchange bought a 25% interest in land that Respondents mother never owned the community owned (AA 823) due to bogus loan for $164,00, and then Respondent had Judge Black award him a $64,000 separate property contribution and Respondent never showed evidence that a valid loan existed no check. AA 175-193

Respondent falsely claimed his mother gifted him a $100,000 as his separate property when Respondent knew the $100, 000 came from an account at Wells Fargo that Respondent failed to disclose and Respondent was a signer and sole beneficiary as per affidavit (AA 337-338) yet Judge Black ignored the evidence and denied discovery on this asset and awarded Respondent the $100,000 because he

claimed inheritance from mother. AA 398-399 Lorna's new evidence proved Respondent failed to disclose ownership of the Roos Trust that Respondent was a co-trustee and main asset of trust was the Commerce Casino investment and Respondent testified he did not own this asset and Respondents false $100,000 separate property gift came from the very same bank account that the Commerce Casino dividend checks was deposited into at Wells Fargo that Respondent previously had testified he had no signing privileges on this bank account when Respondent knew affidavit was correct as he had signing privileges being an owner of the trust yet Respondent concealed this material fact and failed to disclose any existence of the Roos Family Trust. AA 401-407, AA 741

Respondents false portrayal of having a mother who supposedly owned an investment into Commerce Casino whereby Respondent falsely claimed she had borrowed, loaned, and gifted funds to Respondent caused great harm to Lorna and Leslie Stevenson as they have suffered damages from not obtaining a fair and equitable judgment when Lorna presented to the court evidence of a fraudulently created 1031 starker exchange whereby Lorna and Leslie's separate property never went to the home on Kenilworth and or a construction loan as the evidence proved the funds were diverted to Don Levin and Respondents mother for an undisclosed loan (AA 984-1002), forged

signatures of Lorna(AA 497-511) and Leslie Stevenson (AA 1013), copy of checks paid to the community from Leslie Reilly totally $97,000(AA 1039-1062), undisclosed bank accounts, commingled funds, fraudulent loan documents, perjury, and fraud which reflected all community, quasi-community, and separate property assets. AA 175-1144

Lorna sought discovery on the Commerce Casino interest held in mothers name but was quashed by Judge Black and was denied discovery as it would have exposed criminal behavior of Respondent and others including insurance fraud by Tom Girardi on the suspicious check of $531,561. AA 343-361

Respondent was awarded every single asset in dispute in judgment dated 6-4-04 as Respondent had claimed his mother had borrowed, gifted, and loaned money on almost every asset in the community estate without any third party documentation to support Respondents claims. AA 875-899 Respondent falsely claimed his mother owned the Commerce Casino investment and had loaned the community estate money on family home when it was Lorna's twin sister that had loaned the community money for the construction of home on Kenilworth and has never been repaid yet Judge Black awarded Respondent for his false claims of loans and gifts from mother and Respondent was

able to obtain a fraudulent Judgment dated 6-4-04 because of Respondents false claims. AA 175-1144

Judge Black refused Lorna's request to join Respondents mother and Lorna twin-sister, Leslie Stevenson Reilly to the case when they were tied to many of the substantial community assets. AA 177 Respondent's mother failed to show up for her scheduled deposition, refused to satisfy subpoenas, and never came to court when subpoenaed to do so whereby Respondents own mother refused to support Respondents false financial claims at court. Judge Black refused to sanction Respondents mother for not showing up to court, refusing to satisfy subpoenas, and for her non-appearance of a scheduled deposition. AA 369-379

Lorna did provide the court with a written trial brief outlining the embezzlement committed by Respondent and his mother whereby they used a fraudulent 1031 starker agreement to deceive and steal assets from Lorna and Leslie Stevenson to pay back Don Levin for a loan made to invest in the Commerce Casino (new evidence reveals money laundering took place on Sacramento property by Respondent and Don Levin there was no valid 1031 starker exchange (AA 985-1002) going on here as the attorney letter states correctly. AA 1081 It was actually a double sale that took place on Sacramento Respondent had already collaterized the entire property value to Don Levin with an undisclosed loan in amount of $128,050 (AA 195-202)

so Don Levin took the property and then Don Levin sold it to Charles Cunningham and had Charles Cunningham assume the existing undisclosed loan that Respondent took out on the property unbeknownst to Lorna and Leslie Stevenson) yet Judge Black refused to include the Commerce Casino was part of community estate. AA 175-193

Judge Black took Respondent at his word and ignored third party evidence which revealed a suspicious check for $531,561(AA 334-335) (Respondent claimed $531,561 was a tax-free retained earnings dividend check to his mother from Commerce Casino investment(AA 340) when Lorna alleged this $531,561 was a insurance settlement check for a car accident injury for Leslie Stevenson Reilly that Tom Girardi represented her on (AA 177)) was deposited in the undisclosed Wells Fargo account and Respondent made a false claim of separate property $100,000 gift from mother which was written off this check from the same bank account at Wells Fargo #6725-066880 that listed Respondent as a signer and sole beneficiary which was the same bank account at Wells Fargo that Commerce Casino dividend checks was deposited into and never disclosed by Respondent on his final financial in the divorce but the $100,000 gift from mother was awarded to Respondent anyways. AA 334-361 Lorna was never allowed discovery on the

$531,561 when check was deposited into undisclosed bank account that Respondent was a signer and sole beneficiary by Judge Black. AA 334-340

Also, Judge Black issued inappropriate motion to quash on Commerce Casino as Respondents mother never Responded and or appeared at court, it was Respondent who filed a false claim that Commerce Casino investment was Respondents mothers separate property. AA 343-361 Lorna recently discovered Imperial bank did satisfy the subpoena showing the maker and offset on $531,561 check but Judge Black wrongly put the subpoenaed information under seal without any request from Respondent and or third parties to do so Lorna is asking this review court to include the subpoena and findings in this appeal as Judge Black concealed material evidence that should have been considered. AA 385-390

Respondent claimed Commerce Casino and substantial dividends paid was his mothers separate property and because of this Respondent was able to park assets that rightfully belong to Lorna and Leslie Stevenson in his mother's name and Respondent was able to acquire and transfer substantial assets back to himself through the fraudulent creation and concealment of the sham Roos Family Trust concealing ill gotten gains substantial dividends paid from Commerce Casino. AA 261-300 Respondent failed to disclose the Roos Family Trust ever existed as Respondent and his

mother fraudulently created the trust and will on 6-13-96 within months of a brief separation by Lorna and Mike Roos (whereby Lorna and the girls moved out of the home because of Respondents physical and financial abuse but ended up getting back together not divorced in 1995) and within days of the suspicious check for $531,561 being deposited in the undisclosed Wells Fargo account. AA 175-1144

Also, the evidence revealed Respondent and his mother set up an Exempted trust EIN 33-6088274 in 1990 shortly after Walter Roos' death and that the fraudulent Roos Family Trust was apparently created and back dated twice once within months of Walter Roos' date of death 11-16-89 to the date 8-11-89 and Respondent and his mother anointed themselves as co-trustees of the fraudulent Roos Trust at this time and then on 6-13-96 Respondent and his mother needed to include the sisters to make the trust seem more believable as Respondent needed the fraudulent Roos family Trust to hold up to scrutiny and match his story of inheritance as the evidence revealed John Karns law firm created these fraudulent documents (The trust and will of Malissa Roos is evidence of a sham replacement of any original fraudulent documents exist, see page 7 Article v of the will of Malissa Roos dated 6-13-96. AA 78-86 The will state's "The Roos Family Living Trust "established earlier this day and bearing the same date as this will" which makes the trust null

and void. AA 87-125 Also, note in the minute notes in Malissa Roos' probate file it clearly shows no other documents existed and included in these notes it states Walter Roos' papers are incomplete as new evidence revealed Respondents father died with no will or probate. AA 432, AA 434 As Walter Roos was listed as a co-trustor and new evidence revealed Walter Roos died with no pour over will or trust the whole trust is fraud and not valid.) For Respondent as the community paid $25,000 to John Karns for the creation of the fraudulent sham Roos Family Trust and Respondent's mothers will was used to steal and embezzle assets that rightfully belong to Lorna and Leslie Stevenson. AA 409-411 Once again Mike Roos controlled all documents and manufactured, authored, and created evidence in advance of getting caught on fraud. AA 175-1144

Respondent filed a Responsive declaration to motion to set aside Judgment dated 6-4-04 on 10-28-2008 stating on item 3. Respondent read motion and falsely believed the only issues were related to family home and Respondent now claims his separate property shares from the California Commerce Club which was fraud. AA 1147 There was no separate property of Respondents on Commerce Casino as Respondent falsely claimed his mother owned the Commerce Casino as her separate property and Lorna was denied discovery on this asset. AA 343-361 Respondent failed to disclose California Commerce Club as his separate property

on his final financial dated 3-1-00. AA 317-324 Respondent was co-trustee of the Roos Family Trust and failed to disclose this trust as his separate, quasi-community, and or community property. AA 261-300 4. Respondent falsely states Petitioner and I were separated on February 20, 1999. AA 1147 Respondent and Lorna were separated on February 19th, 1999 and was stipulated by Respondent. AA 746 5. Our case went to Trial on issues related to property on 3-9-00, 3-10-00, and written trial briefs and then again on April 2, 2004 before Judge Black. AA 1147 6. On June 4, 2004, a Judgment regarding division of property after trial was filed by Respondent. AA 1147 7. Page 4 of the Judgment, lines 1 through AA 1147 8, reads as follows: "III. House on Kenilworth Ave 16. The court values the house on Kenilworth as of February 2002 was falsely inserted by Respondent. AA 1147. The court docket does not show a ruling was granted and or an appraisal was filed by Respondent with the court on the house anytime in February 2002. AA 1314, AA 1324 Respondent stated above property issues were still in dispute at trial on 4-2-04 which was after 2/2002 whereby Lorna had claimed the property was worth $1,300,000. AA 636 The statement that the court put a valuation on this asset sometime in February 2002 was false and Respondent had intentionally concealed the sale of the family home from Lorna by not disclosing his change of address

with the court against a court order and Respondent sent the children notes with the address as the Kenilworth home like Respondent was still living inthe family home up until late 2007. AA 519-522 The house was valued at $650,000 as Respondent said it was worth. AA 1147 The court has an obligation to value an asset as fairly as possible and the home was sold for $1,299,000 within 90 days of Judgment entered and Respondent failed to bring this material fact to the courts attention when Respondent knew he was selling this asset for twice the price he claimed it was worth and was financially abusing Lorna Roos and failed to get a proper appraisal done. AA 517 The court finds that the equity in the House as of this date was $220,000 this judgment was a proposed judgment and was prepared by Respondent and Lorna never noticed Respondent had inserted miss leading information as to value . AA 1147 Lorna brought the courts attention to the fact Respondent and his mother stole thousands out of the family home during the marriage using fictitious debt but Lorna was denied discovery on the family home and construction loan because Respondent claimed his mother had borrowed, loaned, and gifted money to Respondent without any third party verification. AA 175-1144 17. Respondent claimed he was entitled to a credit of $64,000 for his separate contribution to the purchase of the property. AA 1147 There was no separate property claim and or contribution for the purchase

of the two lots as Respondent did not show evidence of a check was paid for purchase other than a claimed loan from mother of $164,000 and a manufactured document by Respondent to match this claim when the evidenced proved Respondents mother did not make the loan for $164,000. AA 875-899, AA 187-188, AA 875-899 18. Accordingly, the court finds that $156,000 of Equity in the house is community property once again this document was authored by Respondent. Petitioner is entitled to one-half of the amount, or $78,000." Here, Lorna contributed hard cash of over $100,000 and another $97,000 from sister 15 years prior to this date of Judgment and was awarded peanuts on her money from the house equity. AA 1147, AA 175-1144 Judge Black knew that Leslie Reilly twin-sister of Lorna put in $97,000 and evidenced with checks presented to the court yet Judge Black failed to reimburse Lorna for $97,000. AA 1039-1062 8. Respondent sold Kenilworth residence in or about October 2004 for $1,299,000. AA 1148 Respondent falsely states it was two years and eight months after the valuation date this was false as the judgment was entered as to value on 7-4-04. AA 1148 Respondent intentionally entered a false statement that is not supported by the court record as Respondent claimed a wrong time frame as to when the court placed a value on this asset as it was valued on Judgment date of 6-4-04 for $650,000 whereby Respondent prepared Judgment knowing the house was in escrow and

removed Lorna's name from deed on 7-2-04 (AA 1309) at this time Respondent does this in order to embezzle an additional $649,000 from Lorna while concealing the sale on the home and incorrectly stating the valuation date on Judgment was fraud. AA 1147 CALIFORNIA COMMERCE CLUB AA 1148 _9. My mother, Malissa Roos, died on June 20, 2002. AA 1148 Respondent failed to inform the court that mother's estate did not settle until October of 2004 and that Respondent was issued a Gaming License on 8-4-04. AA 175-193 10. Respondent was executor of mother's probate whereby Respondent attempted to claim 20 shares of California Commerce Club was part of mothers probate to match his lies of an inheritance from mother in the divorce case. AA 253-254 Respondent claimed Part of the estate went through probate and part of the estate passed through her trust which was false. AA 1148 Respondent failed to state mothers probate estate totaled less than $20,000 and the Roos trust was fraudulently created to steal assets from Lorna during the marriage. AA 227-251 Also, Respondent was a co-trustee of The Roos Family Living Trust that owns 20 shares of California Commerce club and there was $1,500,000 of Joint tenancy accounts with his mother. AA261-300, AA315 Respondent never disclosed these assets on his final financial and failed to disclose them as separate, quasi-community, and or community property. AA 317-324 11. Respondent

falsely claimed he inherited ten (10) shares of the California Commerce Club through his mom's trust, These shares were transferred to me on or about August 4, 2004. AA 1148 Once again Respondent falsely claimed it is his mothers trust when Respondent knows it is his trust as he is a co-trustee/ owner of the Roos Family Living Trust that Respondent failed to disclose as his separate, quasi-community, community property. AA 317-324 Respondent attempted to claim only 10 shares passed through the Roos Family Living Trust when it was 20 shares that had passed through the trust as the Roos Family Living Trust was a A/B trust which meant 10 shares went straight to Respondent via the EIN # 33-6088274 Exempted Trust A upon Walter Roos' death and then the other 10 shares transferred via trust B to Respondent upon Malissa W. Roos' death. AA 261-300, AA 175-193

In Respondents Response Declaration filed on 10-28-08 Respondent failed to address the Mike Roos & Company asset and Stone & Youngberg interest that Lorna just discovered were concealed community assets whereby Respondent claimed Mike Roos & Company wasn't worth anything and Lorna was denied discovery because of this. AA 1147-1148 Lorna brought the courts attention to the fact that Respondent was not being truthful about his income as Lorna discovered Mike Roos & Company had deposits of $900,000 in a 9 month period in an undisclosed account at Bank of

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America when Respondent claimed he earned only $20,000 a month but Judge Black refused to give Lorna discovery on this asset. AA 455-491, AA 495

Respondent concealed the true value of Mike Roos & Company and never disclosed Mike Roos & Company and or Stone and Youngberg as his separate, quasi-community, and community property on his final financial dated 3-1-00. AA 316-324

Also, Respondent failed to address the undisclosed assets which included: The Roos Family Living Trust to include the 20 shares of Commerce Casino Card Club, EIN #33-6088274 Exempted Trust, Joint tenancy accounts totally $1,500,000, Iroquois property joint tenancy , prudential account joint tenancy, life insurance policy as special co-trustor, Mike Roos & Company, Stone &Youngberg, and California Commerce Club recently discovered by Lorna when she did some subpoenas on a motion for a new support order. AA 45-165, AA 175-1144

Lorna filed a case overview full and frank disclosure in support of motion for set aside of Judgment dated 6-4-04 and attorney fees on 10-28-08 with the court and served Respondent on 1-16-09 and ordered Respondent to file a response. AA 175-1144 Respondent did not send a response to Lorna and did not file a response with the court to the full and frank disclosure regarding all the over whelming evidence of fraud put forth in the case

overview in support of the set aside motion. AA 1307-1308 Also, Respondent did not file a response to motion for freezing assets and other relief when served to do so 4-17-09. AA 1260-1275

ARGUMENT

I. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION TO DENY A MOTION TO SET ASIDE THE JUDGMENT DATED 6-4-04

A. The trial court erred in finding lack of proof in support of motion to set aside Judgment dated 6-4-04 as there was substantial evidence to support a finding to grant a set aside of Judgment dated 6-4-04 and Lorna had met the necessary elements for relief under Family Code sections 2120-2129

Respondent had committed perjury (Family Code 2122 (b), noncompliance with disclosure requirement (Family Code 2122(f)), and actual fraud (Family Code 2122 (a)) ;

The facts alleged in the original Order to Show Cause filed on 9-29-08 with Judge Black by Lorna and served on Respondent 10-6-08 and the full and frank disclosure case overview filed with new Judge Diaz on 10-28-08 by Lorna and served on Respondent on 1-16-09 support the facts alleged as the grounds for relief materially affected the original outcome (Family Code 2122(b); or

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That Lorna and Leslie Stevenson would materially benefit from the granting of the relief (Family Code 2122 (b)); or That the motion was filed within the appropriate time limit (Family Code 2122)

Also, Lorna filed for attorney fees and costs under Family Code 271.

Respondent and or his attorneys never filed a response to the case overview full and frank disclosure that was served on him on 1-16-09 for the hearing on motion to set aside Judgment dated 6-4-04.

B. Failure to fully disclose all assets in a divorce proceedings is properly subject to the severe sanction of Family Code provision that remedies for the breach of the fiduciary duty by one spouse when the breach falls within the ambit of the Civil Code definition of fraud shall include but not be limited to an amount to the other spouse of 100 percent, or an amount equal to 100 percent, of the asset undisclosed or transferred in breach of the fiduciary duty.

Respondent failed to disclose all these assets in the divorce proceedings the Roos Family Living Trust that he was a co-trustee/ owner and to in include its main asset was 20 shares of Commerce Casino Club, EIN# 33-6088274 Exempted Trust, Joint tenancy accounts totaling $1,500,000 as

per mother's probate file, Iroquois property joint tenancy, prudential account joint tenancy, life insurance policies as special co-trustee, Mike Roos & Company, Stone & Youngberg interest, Charles Schwab, Bank of America account, Wells Fargo Bank account and concealed material facts like the sale of the family home for $1,299,000 in escrow at time Judgment was entered, and intentional misrepresented the facts on many assets in the marriage claiming his mother either owned the asset had borrowed, loaned, and gifted funds to Respondent in order to deprive Lorna and Leslie Stevenson their separate property, quasi-community and community property of Lorna's.

The court should have found Respondents conduct constituted fraud, oppression, and malice within the meaning of Civil Code 3294 and Family Code 1101 subdivision (h)

As the court found *In re Marriage of Rossi (2001) 90 Cal.App.4th 34* that Denise's failure to disclose the lottery winnings constituted fraud, oppression, and malice within the meaning of Civil code 3294 and Family Code 1101 subdivision (h).

Family Code 721 (b) imposes a fiduciary duty on spouses in transactions between themselves: "This confidential relationship imposes a duty of the highest good faith and fair dealing on

each spouse, and neither shall take any unfair advantage of the other. This confidential relationship is a fiduciary relationship subject to the same rights and duties of non marital business partners, as provided in Sections 15019, 15020, 15021, and 15022 of the Corporations Code,"

Family Code 1101, subdivision (h) provides: "Remedies for the breach falls with the ambit of Section 3294 of the Civil Code shall include, but not be limited to, an award to the other spouse of 100 percent, or an amount equal to 100 percent, of any asset undisclosed or transferred in breach of the fiduciary duty."

The family court properly concluded in the Rossi v Rossi case that under these circumstances, Thomas was entitled to 100 percent of the lottery winnings under family code 1101, subdivision (h) The Roos v. Roos case presents precisely the circumstance that family code 1101, (h) is intended to address.

As observed in *In re Marriage of Hokanson, (1998) 68 Cal.App.4th 993, 80*

"The clear import of the language in subdivision (h) is that an award of attorney fees is discretionary, over and above the mandatory award of the entire asset at issue." The strong language of family code 1101 (h) serves an important purpose:

full disclosure of martial assets is absolutely essential to the trial court in determining the proper dissolution of property and resolving support issues. The statutory scheme for dissolution depends on the parties' full disclosure of all assets so they may be taken into account by the trial court. A failure to make such disclosure is properly subject to the severe sanction of family code 1101, (h).

C. Respondent intentionally omitted and concealed assets and material facts from the court, Lorna and Leslie Stevenson and at a minimum Respondent should immediately forfeit the full interest 20 shares in California Commerce Club to Leslie and Lorna Stevenson and all ill gotten gains from the investment. Respondent should forfeit all the remaining undisclosed assets listed above and full profit attained from the sale of the house of $649,000 to Lorna as well. Respondent should be ordered to pay Lorna $64,000 for false claim of separate property, $100,000 falsely awarded to Respondent as gift from mother, $100,000 was falsely given to Respondents parents during marriage, $75,000 falsely given to Arnold Forde, $50,000 falsely given to John Burton, and Lorna will need a new trial and discovery too. The judgment must be reversed as well as the motion for the freezing order that Judge Diaz wrongly denied, and motion to quash that was granted in err by Judge Diaz for Respondent. The motion to set aside

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Judgment dated 6-4-04 and for attorney fees should be granted and until Respondent is criminally prosecuted the freezing order should immediately be reversed and granted to prevent further loss of income and assets that rightfully belong to Lorna and Leslie Stevenson.

II. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION ON SUPPORT ORDERS

Respondent never filed for appeal on the District Attorneys case on arrearages instead Respondent got the arrearages case transferred to Judge Black whereby Judge Black issued fraudulent credits in amount of $924,000,$185,000,$20,000, and page school credit which was in direct violation of Family Code 174400 (a) and (c)

SUPPORT PAYMENTS TO ANYONE OTHER THAN DIRECTLY TO THE CUSTODIAL PARENT OR THE COURT TRUSTEE CANNOT BE CREDITED. Family Code 17400 (a) and (c) excludes credit for any support payment made to anyone other than directly to the Custodial Parent/Petitioner or the Court Trustee. In other words, pursuant to Family Code 17400, et seq., the Court must consider all support payments to any third parties as gifts. Therefore, Respondent cannot be given credit for any claimed support payments to any third party.

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As Lorna never stipulated to have the case transferred and or a reconsideration to determine arrearages Respondent failed to comply with Civil Code 1008 For the motion filed by Respondent must have been before the same judicial officer (Judge Webster at the District Attorney) not Judge Black, and must state new facts, and / or law as well as appropriate justification for omitting them earlier. Here, Respondent did not adhere to the laws, had not complied with Family Code 17526 and was rewarded by Judge Black for not obeying the laws with credits issued on third party checks retroactive for more than the original order of 11-15-94 further harming Lorna Roos and the children. Lorna Roos has never been given a copy of orders with calculations done by Judge Black on these fraudulent credits issued retroactively to 11-15-94.

RESPONDENTS REQUEST FOR RETROACTIVE MODIFICATION OF SUPPORT ARREARS SHOULD HAVE BEEN PRECLUDED AS A MATTER OF LAW

PURSUANT TO Family Code 3651 (c) , "A support order may not be modified or terminated as to an amount that accrued before the date of the filing of the notice of the motion or order to show cause to modify or terminate". This code section was further solidified *In marriage of Perez, (1995) 35 Cal.App.4th 77.* Citing Family Code 3651 (c), the court in Perez held that the lower court abused its discretion in modifying the obligor's

arrears from $5,000 to $2,000. The Perez court reasoned that the court is prohibited under the above-referenced code section to modify child support installments that accrued under a valid order. Since Respondent effectively seeks a retroactive modification of the child and spousal support installments that were already calculated from 1994's order to amount owed $924,000 with the District Attorney.

RESPONDENT IS NOT ENTITLED TO CREDITS AGAINST HIS SUPPORT OBLIGATION PRIOR TO THE DATE OF THE HEARING.

Retroactive modifications prior to the filing of the order to show cause are not supported by statue. Respondents request for a retroactive modification of child support should have been denied. See Family Code 4009; *In Marriage of Goosman (194) 26 Cal. App. 4th 838*

RESPONDENT SHOULD HAVE THE BURDEN OF PROOF WITH REGARDS TO HIS CONTENTIONS OF WHETHER HE PAID SUPPORT OR NOT but because Judge Black fraudulently gave Respondent credit retroactive to order of 11-15-94 for THIRD PARTY CHECKS now Lorna is having to appeal these credits when it should have been Respondent appealing the District Attorneys findings. During this whole process and all support orders issued Lorna was deprived of an attorney to represent her interest and the children's

as there has been no money allocated for an attorney in direct violation of Family Code 3557 and Respondent has had the separate, quasi-community, and community property of Lorna's while Lorna was left with outstanding medical and dental bills in excess of $250,000 and was financially abused by Respondent.

Family Code 3557

(a) Notwithstanding any other provision of law, absent good cause to the contrary, the court, upon (1) determining an ability to pay and (2) consideration of the respective incomes and needs of the parties in order to ensure that each party has equal access to legal representation to preserve all of the party's rights, shall ward reasonable attorney's fees to any of the following persons:

(1) A custodial parent or other person to whom payments should be made in any action to enforce any of the following:

(A) An existing order for child support.

(2) A supported spouse in an action to enforce an existing order for spousal support.

Lorna has been left completely handicapped as no one has sent her an order stating what retroactive credits were falsely granted to the order of 11-15-94 at the District Attorney when she has requested them to do so and she should not be prevented from having a fair appeal. Respondent

was fraudulently credited when Respondent never filed and refused to file a OSC for a modified support order as Respondent did not want the higher lifestyle and or current income considered in a new support order so Respondent apparently filed for reconsideration in Judge Black's courtroom a different court without a stipulation from Lorna and never appealed Judge Webster order from the District Attorney. The reconsideration of arrearages should never have been credited before or made retroactive beyond the date of Respondents motion and or reconsideration from Judge Webster and or Judge Black. Judge Black had no right to consider the arrearages without Lorna's consent and or permission and or modify the original order back to 11-15-94 and Lorna should have had money for an attorney.

Here, Judge Black gave retroactive credits to Respondent to 11-15-94 when Respondent was not current on support, had failed to file any OSC for modification of support and fought vigorously for Lorna to not get a new support order issued on current tax returns and or income whereby Lorna filed two OSC's one in August of 2000 with District Attorney but was delayed and delayed so Lorna filed again in Judge Black's court on April 24th, 2001 for a new support to be heard and was not granted a new support order by Judge Black until 4-2-2004 and Judge Black did not make that order retroactive to the date of filing for Lorna. Instead

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Judge Black issued an order on 4/2004 to do a another one two months later on 6/2004 in order to quote the Hoffmiester II case because Judge Black was not using tax returns and or income and expenses statements and Judge Black knew he was violating Family code 3552, on all support orders issued

Family Code 3552

In a proceeding involving child, family, or spousal support, no party to the proceedings may refuse to submit copies of the party's state and federal income tax returns to the court, whether individual or joint.

(a) The tax returns may be examined by the other party and are discoverable by the other party...

Judge Black refused to have Respondent turn over tax returns and or have Respondent sign for IRS tax verification when it was warranted and violated Family Code 3665(a) (b) on all support orders issued

FAMILY CODE 3665 (a) (b)

(a) In a proceeding involving child, family, or spousal support, no party to the proceeding may refuse to submit copies of the party's state and federal income tax returns to the court, whether individual or joint.

(b) The tax returns may be examined by the other party and are discoverable by

the other party. A party also may be examined by the other party as to the contents of a tax return submitted pursuant to this section.

Then Judge Black failed to sanction Respondent when Respondent refused to respond to Lorna's subpoenas and never turned over the tax returns and or subpoenaed information when it was warranted in direct violation of Family Code 3667 on all support orders issued.

Family Code 3667

Upon the subsequent filing of a motion for modification or termination of the support order by the requesting party, if the court finds that the income and expense declaration submitted by the responding party pursuant to this article was incomplete, inaccurate, or missing the prior year's federal and state income tax returns, or that the declaration was not submitted in good faith , the court may order sanctions against the responding party in the form of payment of all costs of the motion, including the filing fee and the costs of the depositions and subpoenas necessary to be utilized in order to obtain complete and accurate information....

All support orders need to be set aside under Family Code 2122 (a) (b) & (f) for actual fraud (a), perjury (b), and failure to comply with disclosure requirements (f) and corrected retroactively whereby Lorna should have discovery

and money for attorney as she was not qualified to represent her rights and the children's.

Respondent had kept Lorna in ignorance because Respondent had concealed income and income generating assets that were fraudulently diverted put into the fraudulently created trust to divert martial assets and Lorna and Leslie Stevenson's separate property to the Roos Trust that Respondent failed to disclosure in his final financial disclosure filed 3-2-00 whereby Respondent owned the trust and it was recently discovered by Lorna that Respondents mother never owned an interest in Commerce casino as falsely represented by Respondent and Lorna immediately filed with the Court within one year from discovery. Also, Respondent had filed false income and expense statements with the court whereby he failed to disclose the dividends paid on 20 shares of Commerce Casino, true income from Mike Roos & Company, true income from Stone & Youngberg, Capital Counsel and Respondent refused to turn over current tax returns and failed to disclose EIN # 33-6088274 and Respondent violated the 45 day rule on the disclosure of the final financial which was given to Lorna after first day of trial violating family Code 2105(a).

Lastly, Lorna should not be penalized because Judge Black never issued a statement of decisions on this case when Lorna requested in writing that Judge Black needed to

issue one and it was Judge Black who failed to explain the factual and legal basis for his decisions by ignoring Lorna's request Which was in direct violation of Civil Code 632 and Family Code 3654 and Rules of the Court 232 basically prevented Lorna a fair appeal by making it harder for her to prove her case. Remember Lorna has never been given money for an attorney and or had proper legal representation to preserve her rights, Leslie Stevenson's and her children's which was in direct violation of family code 2030 while Respondent had all the assets and money to hire expert attorneys while embezzling money. Sadly, Respondent has been allowed to financially abuse Lorna and her children for far too long and needs to be criminally prosecuted for not paying proper support and support on current income, for actual fraud, perjury, and failure to disclose.

CONCLUSION

This case is an absolute miscarriage of Justice and Respondent should be punished accordingly based on the forgoing and the over whelming evidence put forth in the case overview and full and frank disclose the trial court abused its discretion and should grant the motion to set aside Judgment dated 6-4-04 and attorney fees and grant discovery and assets as stated above and should grant the freezing order and other relief and the court needs to reverse the motion to quash as this further harms Lorna and Leslie Stevenson.

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Respectfully submitted,

Dated: 9-8-09

By____*"s/"*_____
Lorna Roos

Appendix F

The Washington Times
Lobbyist paid $15K to Waters' husband
Bill would have benefited client
By Chuck Neubauer The Washington Times
9:48 p.m., Sunday, November 7, 2010

A lobbyist known as one of California's most successful power brokers while serving as a legislative leader in that state paid Rep. Maxine Waters' husband $15,000 in consulting fees at a time she was co-sponsoring legislation that would help save the real-estate finance business of one of the lobbyist's best-paying clients, records show.

Ms. Waters' husband, Sidney Williams, a former pro football player and ambassador to the Bahamas, was a paid consultant on a Los Angeles lobbying project for Mike Roos, who served with Ms. Waters in the California State Assembly. During Mr. Roos' 14-year tenure, he held the posts of majority floor leader and speaker pro tempore.

In 2007, Mr. Roos expanded his successful California lobbying business to Washington, D.C., after Democrats took control of the House and Ms. Waters became chairman of the House Financial Services housing and community opportunity subcommittee, where she played a key role in housing legislation.

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Mr. Roos sought her assistance for a California client that specialized in homeownership and asset development.

According to federal lobbying records, Mr. Roos was paid $430,000 by the Nehemiah Corp. of America, a Sacramento, Calif.-based nonprofit that acted as a middleman to help sellers finance down payments for homebuyers to qualify for mortgages insured by the Federal Housing Administration (FHA). He lobbied members of Congress and federal agencies on behalf of the firm.

One of those lobbied was Ms. Waters, a California Democrat and key Nehemiah ally, who held a hearing on down-payment assistance in June 2007 and persuaded federal housing officials to delay for 30 days efforts to impose a ban on the program. She also co-sponsored legislation in 2008 and 2009 that would have kept Nehemiah's assistance program viable.

Nehemiah was the largest middleman on such deals nationwide, with more than a third of the business, passing on $1.5 billion from sellers to more than 320,000 homebuyers in a decade.

Ms. Waters denied any connection between Mr. Roos' payment to her husband and her help with Mr. Roos' client, Nehemiah. She said the program allowed homeownership to hundreds of thousands of low- and moderate-income families who needed assistance with the down payments.

The Internal Revenue Service ruled in 2006 that seller-funded down-payment assistance programs

were "scams," and federal housing officials tried for several years to end what they considered a dangerous practice of allowing sellers to make the required 3 percent down payments for homebuyers through a nonprofit middleman such as Nehemiah.

Three times, Ms. Waters co-sponsored legislation that Nehemiah and similar groups wanted to either stop the proposed federal ban or overturn it once it became law. The ban went into effect in October 2008, but not before Nehemiah had financed an additional $600 million in down payments for 100,000 homeowners in the 17 months after the ban was proposed.

In the first quarter of 2009, while Ms. Waters was helping Mr. Roos, her friend of 30 years, by co-sponsoring one final effort to overturn the federal ban on middlemen, her husband was on the Roos payroll as a consultant. The $15,000 payment, according to lobbying reports filed with the city of Los Angeles, was for Mr. Williams' help in trying to get a Los Angeles hotel off a designated list of Residential hotels that could not be turned easily into upscale lofts.

The federal ban on middlemen remains in effect.

Ms. Waters' legislative duties and her husband's business dealings have intersected before. She is fighting charges brought by the House ethics committee that she improperly sought federal help for a bank in which her husband was a former board

member and a current stockholder. She has denied any wrongdoing and has vowed to fight the charges in a public trial set to begin later this month.

In a statement in response to questions from The Washington Times on her involvement with Nehemiah, she said her work on programs aimed at increasing homeownership had been "consistent throughout my career."

She said that as head of the House Financial Services housing and community opportunity subcommittee, she was approached in 2007 by advocates both for and against seller-funded down-payment assistance programs to hold a hearing on the issue — before Nehemiah hired Mr. Roos.

Ms. Waters said she called the hearing because of her oversight responsibilities and because the issue had "potential implications for many people seeking homeownership."

She said it was the owners of the Los Angeles hotel who asked Mr. Roos to include her husband in discussions with the city, and he accepted the contract nearly two years after her initial involvement with the issue of down-payment assistance.

Asked in writing whether there was a conflict of interest for her husband to receive a payment from a lobbyist for whom she was seeking favorable legislation for one of the lobbyist's biggest clients, she said: "Ambassador Williams was hired for his stellar track record and knowledge of local

government. Any suggestion to the contrary is unfounded and irresponsible."

Mr. Williams, appointed by President Clinton as ambassador to the Bahamas from 1994 to 1998, did not return phone messages left for him after initially telling a reporter to call back later because he was traveling. He is president of the Williams Group, which provides consulting services to businesses.

Mr. Roos did not respond to e-mailed questions or repeated phone messages seeking comment.

Melanie Sloan, executive director of Citizens for Responsibility and Ethics in Washington (CREW), a watchdog group, said Mr. Roos' $15,000 payment to Mr. Williams created "an appearance problem."

"It doesn't violate any House rules, but members are supposed to avoid even the appearance of a conflict of interest," she said, noting that Mr. Williams should not have taken money from a lobbyist his wife was helping.

"It seems unlikely that Mrs. Waters took any action because of the payment because she had been active on the issue for several years," said Ms. Sloan, a former federal prosecutor. "It shows Mrs. Waters is a little tone-deaf on the appearance of conflict of interest."

Nehemiah's top executive, Scott Syphax, said he was not aware of Mr. Roos' payment to Mr. Williams. He said Mr. Roos was hired to strengthen the company's ties to the California congressional delegation and to

solidify its relationship with Ms. Waters. Before Mr. Roos was hired in May 2007, Mr. Syphax said, he met with Ms. Waters and urged her to hold a hearing on the issue.

Ms. Waters called a hearing on the issue in June 2007 at which Mr. Syphax said the business of providing seller-funded down-payment assistance to low- and moderate-income homebuyers was facing "extinction." A month earlier, the Department of Housing and Urban Development (HUD) published a proposed rule to ban such seller-funded assistance.

FHA had long required buyers to make at least a 3 percent down payment to qualify for low-interest financing. While FHA rules allowed relatives to provide buyers with the down payments, they barred sellers from giving the money.

In 1997, Nehemiah found a loophole around the ban by giving the down payment as a gift to the buyer and then collecting the amount as a donation plus a processing fee from the seller. Other nonprofit groups got involved and seller-financed loans mushroomed from less than about 2 percent of FHA loans in fiscal 2000 to nearly 38 percent in fiscal 2007, according to the Congressional Research Service.

At the hearing, Margaret Burns, then a top HUD official, testified that such loans had "a significant negative impact" on FHA's business. She said loans based on seller-funded gifts performed "very poorly"

and foreclosure rates were "more than twice those" of all other home-purchase loans insured by FHA.

In 2007, Ms. Waters and two other subcommittee members, Reps. Al Green, Texas Democrat, and Gary G. Miller, California Republican, sponsored an amendment to the HUD appropriations bill prohibiting the agency from spending funds to implement the rule. The amendment passed the House but not the Senate.

HUD also announced its final rule in 2007. Nehemiah responded with a lawsuit, and a federal judge delayed implementation. In 2008, the court kicked the rule back to HUD, and President Bush signed a housing bill prohibiting down-payment assistance programs. Ms. Waters, Mr. Green and Mr. Miller introduced bills to restore the program in July 2008 and January 2009, but neither became law.

Mr. Syphax, who applauded Ms. Waters' efforts in Congress as giving "people a chance to be heard," said his company's board of directors decided in March 2009 to get out of the down-payment assistance business and to stop fighting the ban.

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